

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ILEEN CAIN

PLAINTIFF

-against-

MERCY COLLEGE et. al.

**LETTER MOTION**  
**Relief from Judgment**

**Southern District**  
1: 20-cv-2262 (LLS)

**Second Circuit**  
21-824

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March 6<sup>th</sup>, 2023

***Re:***

Defendant Mercy College, Department of Campus Safety 2021 Annual Security & Fire Safety Report, adopted Policy and Procedure that prohibit race, gender, and disability discrimination and student on student cyberstalking/stalking victimization on Defendant's campuses;

Defendant Mercy College, Department of Campus Safety 2021 Annual Security & Fire Safety Report identified One instance of cyberstalking/stalking reported in 2019;

Defendant Mercy College President Tim Hall letter, Defendant student body participated in posting racially derogatory comments and images via the internet platform ZOOM 2020 aimed at Plaintiff.

---

Dear Judge Stanton:

Plaintiff, Ileen Cain letter motion respectfully, confers, Relief from Judgment Pursuant to Fed. R. Civ. P. 60 b (1)(2)(3). Your Honors Order of Dismissal issued on February 25<sup>th</sup> 2021 Pursuant to 28 U.S.C. § 1915 (e)(2)(B)(ii). The Second Circuit affirmed MANDATE issued on July 17<sup>th</sup> 2022.

Plaintiff's contention is to move this Court at a term thereof and the papers attached hereto for a pre-motion conference to argue why Plaintiff's motion for Relief from Judgment should be granted. Plaintiff is aware, Your Honor's docket is heavy, therefore, Plaintiff letter motion is limited to highlighting documentation and evidence, manifested post Your Honors Order of Dismissal, and minimal rehash one paragraph of Plaintiffs claims brought before this Court in March of 2020.

Plaintiff acquired Post Your Honors Order of Dismissal Defendant Mercy College Department of Campus Safety 2021 Annual Security & Fire Safety Report; attached here to "[The Report]" established Defendant Mercy College Adopted Policy and Procedure Pursuant to Federal, City, and State law that prohibit conduct that discriminate against students based on race, gender, disability and cyberstalking/stalking on campuses of higher education, private and public. ["The Report"] identified one case of cyberstalking/stalking in 2019. And identified Defendant appointed Title IX coordinator. Plaintiff, brought claims alleging Defendant conspired to conceal Plaintiff is a victim of cyberstalking/stalking, on Defendant Mercy College Harlem campus, after Plaintiff complained of cyberstalking/stalking in October 2019

In October 2019 Defendant created a list of derogatory questions telephoned, Plaintiff's fellow classmates and students with the intentions that Plaintiff's fellow classmates and students would confirm Plaintiff's conduct and character could not

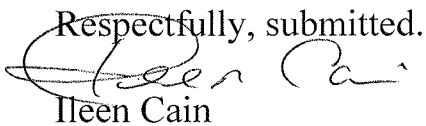
benefit from the services Defendant provide. The series of phone calls lasted four months.

Plaintiff acquired post Your Honor Order of Dismissal attached here to a letter from Defendant Mercy College President, Tim Hall citing Defendant Mercy College, student body participated in posting derogatory racial comments and images aimed at Plaintiff during a school sanctioned Zoom session. Zoom is an internet-based platform that allows users to connect via video, audio, phone, and chat. Zoom requires an internet connection and a supported device. Defendants provided the internet connection and supportive device.

Plaintiff humbly requests a pre-motion conference to argue the reasons Plaintiff's letter construed as a motion should be granted.

Plaintiff is available at the Courts convenience should Your Honor have any questions.

Respectfully, submitted.



Illeen Cain

41 Schermerhorn Street, Ste. 114

Brooklyn, NY 11201

Coycain1@hotmail.com

347 881-5922

ATTM:

1. Mercy College Department of Campus Safety 2021 Annual Security & Fire Safety Report
2. President, Tim Hall Letter, racially derogatory comments and images

Posted via Zoom, internet platform

3. Application, for the court to Request Pro Bono Counsel

4. Notice of Change of Mailing Address, Pro Se

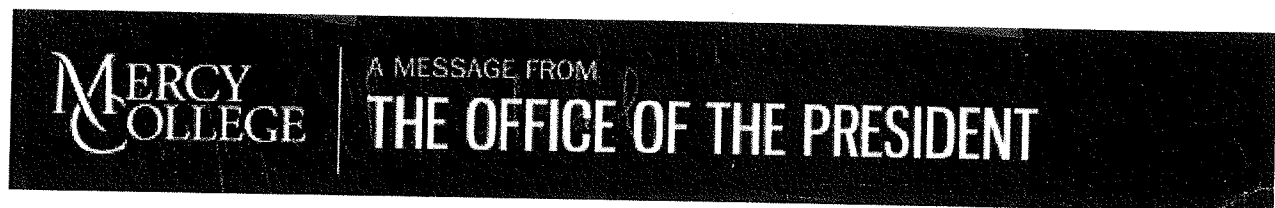
Sworn to before me this

7<sup>th</sup> day of MARCH 2023



**SUNDIATA ACREE**  
Notary Public - State of New York  
No. 01AC6443596  
Qualified in New York County  
My Commission Expires 11/07/2026

**SUNDIATA ACREE**  
Notary Public - State of New York  
No. 01AC6443596  
Qualified in New York County  
My Commission Expires 11/07/2026



December 10, 2020

Dear Students, Faculty and Staff,

I was shocked and saddened to learn of a recent incident where racist remarks and disturbing imagery were posted on a Zoom session during a College-sponsored event. We will not stand for offensive, obscene or discriminatory materials to be communicated anywhere at our college. Mercy's Campus Security team is investigating the source of this attack.

I want to remind everyone that Mercy has zero tolerance for discrimination and harassment in any form and is committed to maintaining a safe academic and social environment that is free from the poison of hatred and violence.

For anyone in need of support services, please contact:

- **Student Counseling Center:** To schedule an appointment please call (914) 888-5150 or email [counselingcenter@mercy.edu](mailto:counselingcenter@mercy.edu). Tele-med services are available.
- **The Employee Assistance Program (EAP):** This resource is available to all employees, 24 hours a day and 7 days a week, providing no-cost counseling services. Please contact (800) 327-1850 or visit <https://www.guidanceresources.com>.
- **Title IX Resources:** For more information, please visit <https://www.mercy.edu/about-mercy/title-ix>. If you have experienced discrimination, please contact Tom McDonald, Title IX Coordinator/Equity Compliance Specialist at (914) 674-7679 or [tmcdonald7@mercy.edu](mailto:tmcdonald7@mercy.edu).

Unless otherwise indicated, Zoom sessions are considered to be private and should not be distributed. To view the College's Non-Discrimination Policy click [here](#). To view the Student Code of Conduct click [here](#).

Sincerely,

Tim Hall

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKIleen Cain

(List the name(s) of the plaintiff(s)/petitioner(s).)

20 Civ. 2262 (LS) ( )

Morg College et al.

- against -

## AFFIRMATION OF SERVICE

(List the name(s) of the defendant(s)/respondent(s).)

I, (print your name) Ileen Cain, declare under penalty of perjury that I served a copy of the attached (list the names of the documents you served): Letter Motion & President, Tim Hall Letter

upon all other parties in this case by (state how you served the documents, for example, hand delivery, mail, overnight express) US. mail to the following persons (list the names and addresses of the people you served): Defendant, Counsel  
Jeff. Kramer, Locke Lord, LLP  
200 Vesey Street, 20<sup>th</sup> fl.  
New York, New York 10281-2101  
on (date you served the document(s)) 3/7/2023

3/7/2023  
Dated

Signature

Address

City, State

Zip

Telephone Number

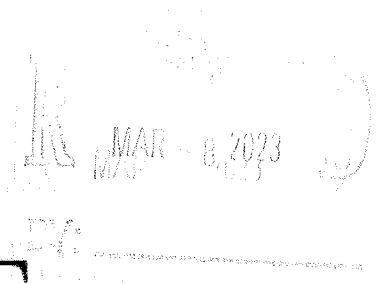
E-Mail Address

**SUNDIATA ACREE**  
Notary Public - State of New York  
No. 01AC6443596  
Qualified in New York County  
My Commission Expires 11/07/2026

Peggy Caen  
47 Schermerhorn St, Ste 114  
Brooklyn, NY 10201

US  
DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

United States D.D.N.Y.  
40 Foley Square  
New York, NY 10007  
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## DEPARTMENT OF CAMPUS SAFETY

### 2021 Annual Security & Fire Safety Report

INCLUDES CRIME STATISTICS FOR YEARS 2018, 2019, AND 2020



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THE CLERY ACT

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and related amendments, as well as New York State Education Law, colleges and universities are required to prepare and publish an Annual Security Report by October 1 of each calendar year. The Annual Security Report includes statistics for the previous three years concerning specific reported crimes that occurred on campus and on public areas within, or immediately adjacent to and accessible from, the campus. These statistics are compiled from campus incident reports, reports from designated Campus Security Authorities, and from local police departments and precincts. Statistics related to fires that may have occurred in on campus student housing are included as part of this report. The report also describes institutional policies relevant to campus security, such as policies concerning alcohol and drug use, crime prevention and reporting, including crimes that involve dating violence, domestic violence, sexual assault and stalking, as well as emergency and evacuation procedures and protocols. This report is prepared by the College's Department of Campus Safety in cooperation with the local law enforcement agencies that adjoin all Mercy College campuses. Campus crime, arrest, and referral statistics include those reported to Campus Safety and local law enforcement agencies. An online copy of this very same report can be found at <https://www.mercy.edu/about-mercy/campus-safety-and-security> under the Annual Security Report tab. In addition, an e-mail notification is made annually to all enrolled students and all employees that includes a copy of this report and also provides the website address through which the report can be accessed. Printed copies of the report may also be obtained at the Department of Campus Safety located in Main Hall, room 234 at the Dobbs Ferry campus or by calling (914) 674-7225. All prospective students and employees may obtain a copy as described above.

SECURITY AND ACCESS TO CAMPUS FACILITIESCampus Facilities

During Calendar Year 2020, Mercy College was made up of four distinct campuses: Dobbs Ferry, Manhattan, Bronx, and Yorktown Heights. No academic activity occurred at the Yorktown Heights Campus in 2020 and Mercy College ceased all operations there in June of 2021.

The Dobbs Ferry Campus is located at 555 Broadway, Dobbs Ferry, New York.

Dobbs Ferry normal hours of operation are 7:00AM to 11:00PM Monday to Saturday, and Sunday 7:00 AM to 6:00 PM. After hours, only currently enrolled students and employees are permitted to be on the Dobbs Ferry Campus for the purpose of school related work. The campus is patrolled both by vehicle and on foot.

The Manhattan Campus is open 7:30AM to 11:00PM Monday through Saturday. It is located at 47 W 34<sup>th</sup> St., NY, NY.

The Bronx Campus is open 8:00AM to 11:00PM Monday to Thursday, 8:00AM to 10:00PM on Friday, 8:00AM to 8:00PM on Saturday, and 8:00AM to 4:00PM on Sunday. It is located at 1200 Waters Place, Bronx, NY.

The Yorktown Heights Campus was open 7:00AM to 9:30PM Monday to Friday and 8:00AM to 2:00PM on Saturday. It is located at 2651 Strang Blvd., Yorktown Heights, NY.

Though primarily a commuter school, Mercy College has three residence halls: Hudson and Founders' Halls, which are located at the Dobbs Ferry campus, and one on the seventh floor of the Manhattan Campus, referred to as "Dorm-34." These are restricted to residents and their guests according to guest protocols presented in the Student Handbook which require all visitors to sign in and provide advance notice of their arrival if remaining overnight. {During the ongoing COVID-19 Pandemic visitor access to the residence halls is entirely restricted}. Access to the residence halls by College employees is on an "as needed" basis and incorporates a strict control procedure implemented by Campus Safety and the Office of Residence Life. The Assistant Dean of Student Affairs, Resident Directors (RD's) and Resident Assistants (RA's) supervise the residence halls. There is an RA on every wing. An RA is an upper-class student (sophomore/junior/senior) who has received extensive training in many different aspects of residence hall living. The RD's and RA's undergo training in enforcing residence hall safety and security policies and awareness of potential safety hazards and concerns. One RA is on always duty from 8:00 PM to Midnight. In addition, there is one RD on duty throughout the day, each day. Residents must produce their ID each time they enter the hall.

Security for the residence halls is provided by contract security officers and specially trained student attendants on a 24/7 basis. Access control to the residence halls is supplemented by an online computerized card access system linked to student identification cards. In addition, CCTV coverage is maintained of public spaces within the on-campus residence halls. The same rules apply to Mercy's off-campus hotels that are affiliated with the College when such hotels are used to accommodate excess demand. There are no off-campus student organizations affiliated with Mercy College.

In addition, the Facilities Department maintains the campus buildings and grounds with a concern for safety and security. It inspects campus facilities regularly, promptly makes repairs affecting safety and security and responds immediately to reports of potential safety and security hazards, such as broken windows and locks. Those with concerns about the physical safety of campus buildings and grounds can call the Facilities Office, Monday through Friday, 8:00 AM to 4:30 PM, at extension 7362/7540.

The Department of Campus Safety is directly involved in capital project development and management where security is either directly impacted or capable of being enhanced for the safety of the College community. For example, during the recent refurbishment of the Dobbs Ferry train path leading from campus to the Ardsley on Hudson train station, Campus Safety was able to successfully implement the addition of three additional blue light emergency call boxes.

#### Guest Policy

The public can attend cultural and recreational events on campus with access limited to the facilities in which these events are being held. To report any violations of this policy or to report suspicious persons, contact Campus Safety at (914) 674-7225. The College reserves the right to refuse entry or remove anyone regardless of status for rule infractions or safety reasons. During the current COVID-19 pandemic, visitors are restricted from the residence halls and other safety measures are in place for visitors to all other campus facilities.

#### Identification Cards

Students, faculty, and employees have access to academic, recreational and administrative facilities on campus during regular hours of operation. All students and employees must obtain a MERCY COLLEGE IDENTIFICATION (ID) CARD. ID cards can be obtained at any of the four campuses. ID cards must be

carried at all times while on College property and presented when requested by College authority. ID cards must be presented to access the Bronx and Manhattan campuses. Alumni are also permitted to access selected resources but must register in advance with the Office of Alumni Affairs and obtain a valid Alumni Card.

## **DEPARTMENT OF CAMPUS SAFETY**

### **Campus Safety Mission Statement:**

The mission of the Mercy College Department of Campus Safety is to maintain a secure and open environment that fosters learning and growth for all members of the College community. We pledge to do so in a respectful and professional manner. In return, we ask that members of the Mercy College community assume their individual and collective responsibilities to assist us in our mission and help to make Mercy College the best learning environment possible.

### **Department of Campus Safety Structure and Composition**

The College utilizes NYS licensed security officers from a third-party vendor, currently Security Services of Connecticut (SSC), as well as an in-house staff to provide security services. The Department of Campus Safety is comprised of an Executive Director for Campus Safety and Emergency Management, a Director, two Assistant Directors of Security, an Office Manager, and a contract licensed guard company. Department of Campus Safety personnel, contract security supervisors, and contract licensed security officers who work for Mercy College do not have peace/police officer status as described in the New York State Criminal Procedure Law.

The executive staff of the Department is well versed in safety/security matters and has extensive knowledge of police procedure and/or safety measures at institutions of higher education. These individuals evaluate and oversee a force of contracted New York State Certified Security Guards and Supervisors. Security officers staff an operational command center and patrol the campus both on foot and in marked vehicles (at the Dobbs Ferry Campus) twenty-four hours a day, seven days a week. Security Officers are also assigned to the Bronx and Manhattan campuses. Security Officers are present at the Manhattan Campus twenty four hours a day, seven days a week.

Mercy College Campus Safety officers have the authority to ask persons for identification and to determine whether individuals have lawful business with Mercy College. Mercy College security officers have the authority to issue parking tickets at the Dobbs Ferry Campus which are billed to the financial accounts of students, faculty, and staff. Campus Safety officers do not have the authority to make arrests. Criminal incidents are referred to the local police who have jurisdiction on the respective campuses.

### **Working Relationship with other Law Enforcement Agencies**

The Department of Campus Safety at Mercy College maintains a highly professional working relationship with the relevant local police departments that provide coverage to all Mercy College campuses. All crime victims and witnesses are strongly encouraged to immediately report any crime to Campus Safety and the appropriate police agency. Prompt reporting will ensure timely warning notices on-campus as necessary, as well as accurate crime statistics. Mercy College has a written Memorandum of Understanding with the New York City Police Department and the Dobbs Ferry Police Department. Mercy College maintains an active on-going working relationship with the New York State Police, the Irvington Police Department,

and the Tarrytown Police Department such that any crime that is committed on campus is referred to the local police department jurisdiction for further investigation and/or criminal prosecution.

The Department of Campus Safety also works closely with the Westchester County Police Department, New York State Homeland Security and Emergency Services, The Federal Bureau of Investigation, and The U.S. Secret Service as necessary.

### **CRIME REPORTING**

Students, faculty, staff and their visitors are urged to promptly report emergencies, criminal activity, accidents, unsafe situations, and suspicious activity to Campus Safety at (914) 674-9999 (x9999) and/or by calling 911. If the situation is of an extreme or life-threatening nature, please contact 911 immediately and then follow up by contacting Campus Safety so that preparations can be made for the arrival of municipal first responders. In addition, incidents can be reported to any uniformed Campus Safety officer. A crime victim who does not wish to pursue action either through the institution or the criminal justice system may still voluntarily file a confidential report describing the details of the incident. Depending on the circumstances of the crime, the option exists to file a report while maintaining the confidentiality of the reporter. The purpose of a confidential report is to allow the complainant to maintain confidentiality while still allowing the College to take steps to ensure the safety of the community. A confidential report also allows the College to compile accurate and complete crime statistics for the purpose of making timely warning reports and publishing annual statistics. In exceptional circumstances, where it is not possible to fully guarantee the confidentiality of the complainant, the complainant will be so advised. The College strongly encourages campus mental health counselors who deem it appropriate to inform persons whom they are counseling of the procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

Crime Reports are classified, logged and fully investigated. Any required follow up measures are undertaken in concert with municipal and federal authorities as necessary. Reports may be sent to Human Resources, Student Affairs, or the Title IX office for further action.

The College has emergency call boxes (Blue Light Emergency Phones) deployed throughout the Dobbs Ferry Campus for use in an emergency. By pressing the red button on the face of the call box, users are immediately connected with the Campus Safety Command Center.

In addition, Mercy College affiliates have the ability to file a report electronically via the Mavericks Safe App.

Any actions taken by an individual that recklessly or intentionally endanger the mental or physical health of any member of the College community should be reported to the Vice President of Student Affairs, Assistant Dean of Student Affairs or The Department of Campus Safety. Members of the campus community can telephonically report criminal incidents to any of the contact points below:

**Mercy College Department of Campus Safety**

Dobbs Ferry and all Campuses (Main Office – 24 hours)	(914) 674-9999 (emergencies) X9999
Dobbs Ferry (Main Office – 24 hours)	(914) 674-7225 (non-emergencies)
Bronx	(718) 678-8983
Manhattan	(212) 615-3319

**Title IX**

Title IX Coordinator	(914) 674-7679
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**Dobbs Ferry Campus**

Dobbs Ferry Police and Fire Department	(914) 693-5500
Irvington Police Department	(914) 591-8080
New York State Police Campus Sex Assault Unit	(844) 845-7269
Vice President of Student Affairs	(914) 674-7775

**Bronx Campus**

NYPD 49 <sup>th</sup> Police Precinct	(718) 918-2000
NYFD	(718) 665-2200

**Manhattan Campus**

NYPD Midtown South Police Precinct	(212) 239- 9811
NYFD Midtown South Fire Department	(212) 570-4226
Director of Admissions	(212) 615-3302



### CAMPUS SECURITY AUTHORITIES

Members of the College community may make reports of crimes and security incidents to officials deemed Campus Security Authorities (CSA's). Each year, the Department of Campus Safety requests data, via campus e-mail, from these CSA's for inclusion in this report. CSAs are deemed to have significant responsibility for both student and/or campus activities. CSAs may include members of Campus Safety, Athletics, Student Affairs, Residence Life, etc. Mercy College CSAs undergo required annual online training to ensure that they are fully cognizant of their reporting responsibilities.

<u>General Counsel</u>	<u>Title</u>	<u>Room #</u>	<u>Phone #</u>
Kristen Bowes	General Counsel	VH 104	914-674-7544
Susan Mulliken	Assistant GC	VH 105	914-888-5136
<u>Human Resources</u>	<u>Title</u>	<u>Room #</u>	<u>Phone #</u>
Annette Piccora	Director		914-674-7337
Kareema Gathers	Associate Director		914-888-5273
Whitley Humes	Associate Director		914-674-7838
Lauren Mackenzie	Associate Director		914-674-7836
Jessica Wong	HR Specialist		914-674-7389
Thomas McDonald	Title IX Coordinator/ Equity Compliance Specialist	VH 106	914-674-7679
<u>Office of Campus Safety</u>	<u>Title</u>	<u>Room #</u>	<u>Phone #</u>
Konrad Motyka	Executive Director		914-888-5315
Cesar Robles	Director		914-674-7185
Charles Longi	Assistant Director		914-674-7227
Joe Solicito	Assistant Director		914-888-5258
Ronald Donnatin	Account Manager		914-674-5319
All Security Supervisors			
<u>Student Affairs</u>	<u>Title</u>	<u>Room #</u>	<u>Phone #</u>
Kevin Joyce	Vice President, Student Affairs		914-674-7775
Nick Canzano	Assistant Dean of Students		914-674-7464
Raj Kumar	Executive Director, Student Success		914-674-7798
Kristin Ackerman	Interim Director, Student Affairs		914-674-7163
Leighann VanDeBogart	Director, PACT		914-674-7326
<u>Office of ACCESSibility</u>			
Sara Venezian	Director		914-674-7523
<u>Athletics</u>			
Matt Kilcullen	Director of Athletics		914-674-3065
William Sullivan	Sr. Associate Director		914-674-7566
Dawn Sachs	Associate Director		914-674-7612
Jordan Levine	Associate Director		914-674-7343

William Elliott	Head Athletic Trainer		914-674-3083
Chris Schoen	Assistant Director/Head Baseball		914-674-7406
Michael Maczko	Business Manager/Head MBB		914-674-7294
Danny Leon Jr.	Assistant Director/Head WSOC		914-674-7453
Scott Lagas	Head WBB		
Mike Fazio	Head WSB		
Pedro Velazquez	Head MSOC		
Marissa Spinazzola	Head WFH		
Gary Preston	Head WVB		
Faculty Representative(s)	Astrid Mel		914-674-7874
<b>Res Life Staff</b>			
Alex Colon	Interim Director, Res Life.	Manhattan	914-674-7647
Marque Black	Associate Director, Res Life	Hudson Hall	914-674-7543
Kayla Diaz	Resident Director	Hudson Hall	914-674-7710
Sydney Holley	Resident Director	Founders	914-674-7654
Jermaine Cail	Resident Director	Founders: NE001	
Diasia Burroughs	Resident Assistant (RA)	Hudson Hall	
Samuel Baiden	RA	Hudson Hall	
Omotola Emmanuel	RA	Hudson Hall	
Jillian Simmons	RA	Founders	
Brian Jean	RA	Founders	
Christian Manipis	RA	Founders	
Jadelyn Alers	RA	Founders	
Darius Tomlinson	RA	Founders	
Maria Garcia	RA	Founders	
Safia Hamada	RA	Founders	
Romessa Azhar	RA	Manhattan	
Armando Nuñez	RA	Manhattan	
<b>Office of the President</b>	<b>Title</b>	<b>Room #</b>	<b>Office Phone #</b>
Tim Hall	President		914-674-7307
Jessica Haber	Chief of Staff		914-674-7457
<b>Office of the Provost</b>	<b>Title</b>	<b>Room #</b>	<b>Office Phone #</b>
Peter West	Interim Provost		914-674-7803
Linda Bastone	Associate Provost		914-674-7648
Saul Fisher	Associate Provost		914-674-7768
Lisa Martin	Interim Associate Provost	VH 200B	914-888-5211
<b>School of Business</b>	<b>Title</b>	<b>Room #</b>	<b>Office Phone #</b>
Lloyd Gibson	Dean		914-674-7159
Victor Petenkemani	Associate Dean		914-674-7137

<b>School of Education</b>	<b>Title</b>	<b>Room #</b>	<b>Office Phone #</b>
Eric Martone	Interim Dean		914-674-7618
Roseanne Vallice-Levy	Associate Dean		914-674-7689
<b>School of Health and Natural Sciences</b>	<b>Title</b>	<b>Room #</b>	<b>Office Phone #</b>
Kathleen Golisz	Interim Dean		914-674-7814
Miriam Ford	Associate Dean		914-674-7860
Deborah Hunt	Associate Dean		914-826-9258
Irina Ellison	Interim Associate Dean		914-674-7634
<b>School of Liberal Arts</b>	<b>Title</b>	<b>Room #</b>	<b>Office Phone #</b>
Andrés Matías-Ortiz	Interim Dean		914-674-7458
<b>School of Social and Behavioral Sciences</b>	<b>Title</b>	<b>Room #</b>	<b>Office Phone #</b>
Stuart Sidle	Dean		914-674-7517
Eduardo Albrecht	Associate Dean		914-674-7301
Wendy Vescio	Associate Dean		914-674-7341



### **TIMELY WARNINGS TO THE COMMUNITY**

Timely Warnings are issued to the College Community when the Department of Campus Safety is made aware of a Clery reportable crime that occurs on campus property or property immediately adjacent to and accessible from the campus and which poses a serious or continuing threat to the Community. These Warnings are issued in compliance with federal law for select crimes identified as part of the Clery Act. Victim information is kept confidential during this process and the Warning is designed to prevent a similar occurrence from affecting the Community in the future.

The decision to issue a Timely Warning is made by the Executive Director for Campus Safety and Emergency Management in consultation with other members of the College's executive management as necessary. When it is appropriate, the College will issue an immediate notification via the public address system, text messaging, and electronic mail. The College is not required to issue a Timely Warning with respect to crimes reported to a pastoral or professional counselor.

### **EMERGENCY NOTIFICATION AND RESPONSE**

Mercy College utilizes the REGROUP (MERCY ALERT) emergency mass notification system to transmit via telephone, text, or e-mail emergency messages to the College Community. Upon confirmation by the Department of Campus Safety of a significant on campus emergency or dangerous situation involving an immediate threat to the health or safety of students, faculty or employees Mercy College will, immediately, taking into account the safety of the community, determine the content of the notification and initiate the notification system. This is done unless the notification will, in the professional judgment of Campus Safety or upon conferral with the emergency responders, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency. Campus Safety will respond to the scene and/or confer with emergency responders to determine the level of the emergency. Campus Safety will notify the Mercy College Emergency Response Team who will be responsible for managing the emergency incident until closure. Follow up information will be provided to the community as appropriate, either through the continued use of the MERCY ALERT emergency mass notification system or via the broader electronic media described below.

In case of an imminent threat to life or property, Campus Safety will be responsible for issuing an Emergency Notification that will be disseminated to the entire campus community. Where time allows, Campus Safety will collaborate with the Mercy College Emergency Management Team (EMT) (see description below) to craft an appropriate notification that may or may not be limited to a particular segment or segments of the campus community as appropriate. The emergency situation will be continuously assessed to determine if additional segments of the campus community require notification. Members of the larger community can learn about significant emergencies via the Mercy College social media platforms, through local media outlets, or via MERCY ALERT if their contact information has been included by a Mercy College affiliate. A test of the emergency broadcast system is conducted once a semester.

To disseminate emergency information to the College community, Mercy College may also utilize the Mercy College website, [www.mercy.edu](http://www.mercy.edu), Mercy Connect, Outlook e-mail, Mercy's Facebook page, Twitter or the Mercy College information line in addition to the MERCY ALERT emergency mass notification system.

Mercy College previously provided easy access to emergency preparedness and response information via any mobile device using the CrisisManager App. The CrisisManager App provided direct links to emergency phone numbers, maps of evacuation assembly areas, and procedures on how to respond to various types of emergencies such as active shooter, bomb threat, emotionally disturbed, fire/explosion, hazardous materials, medical, power and water outages, severe weather, sexual assault, suspicious package, and campus violence. In mid-2020, Mercy College transitioned to a new App called *Mavericks Safe* which offered enhanced safety features similar to what was offered with CrisisManager as well as a COVID-19 related self-screening capability.

**EMERGENCY DRILLS, TESTING & EVACUATION PROCEDURES** Mercy College facilitates emergency training and exercises for all members of the campus community to include students, staff, and faculty. During individual building evacuation drills, both announced and unannounced, building occupants are familiarized with campus evacuation procedures. All building occupants are given an opportunity to ask questions and express concerns during the instructional portion of the drills. Records are kept of each drill conducted. Evacuation procedures and instructions for each campus may be found under the Emergency Response Plans section of the Mercy College Campus Safety homepage. Evacuation procedures include such protocols as instructions to “Shelter in Place” or to exit the building in question.

Emergency Management training culminates in an annual emergency exercise that engages the EMT in a simulated drill that reflects actual events that have affected or might affect the higher education community. The EMT is made up of senior managers from throughout the College who meet regularly to develop and practice all hazard emergency plans and operations.

Campus Coordinators, primary and backup, are assigned to each of the four campuses. The Campus Coordinator role is to be prepared to respond to any emergency incident. Each Coordinator, mobile patrol, and security fixed post is equipped with emergency and first aid supplies.

*Note on all emergency notifications: When in the considered opinion of college or civil authorities, dissemination of information on a given emergency may hinder or cause additional harm, such notification may be delayed until such time that it is safe to do so.*

**PROCEDURES TO FOLLOW IF A CRIME OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING HAS OCCURRED**

Under the provisions of Title IX of the Education Amendments of 1972 (Title IX), 20 USC §§ 1681 et seq., and its implementing regulations, 34 CFR Part 106, discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance is prohibited. Sexual harassment of students, which includes acts of sexual violence, cyber stalking and unwanted physical contact of a sexual nature, is a form of discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature that is sufficiently serious to adversely affect an individual’s ability to participate in or benefit from an educational program. It includes unwelcome sexual advances, requests for sexual favors and other verbal, non-verbal, or physical contact of a sexual nature on or off campus. Sexual assault, domestic violence, dating violence and stalking are forms of sexual harassment and are prohibited forms of discrimination under Title IX.

On March 7th, 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. Law 113-4), which, among other provisions, amended section 485(f) of the Higher

Education Act (HEA), otherwise known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act requires institutions of higher education to comply with certain Campus Safety and Security-related requirements as a condition of their participation in the Title IV, HEA programs. Notably, VAWA amended the Clery Act to require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports.

Further, New York State amended the Education Law by adding Article 129-B on July 1, 2015 (in addition to Article 129-A, which has been in effect for a number of years). This law, known as “Enough is Enough” imposes additional legal obligations for reporting sexual assault, dating violence, domestic violence, and stalking by Colleges, as well as sets forth detailed requirements for the way in which Colleges must handle these matters internally.

The procedures for reporting all incidents of sexual harassment, gender-based harassment, and sexual violence, including dating violence, domestic violence, sexual assault and stalking are set forth in **Mercy College’s Interim Policy and Procedures Relating to Sexual Misconduct**, attached hereto.

**Further information for reporting and support services can be found on Mercy’s webpage, <https://www.mercy.edu/about-mercy/title-ix>**

Allegations of sexual misconduct including sexual harassment, sexual assault, stalking, or domestic and dating/intimate partner violence should be reported to one of the individuals listed below:

**Title IX Coordinator, Thomas McDonald, VH 106, 914-674-7679, [tmcDonald7@mercy.edu](mailto:tmcDonald7@mercy.edu)**

**Executive Director for Campus Safety, Konrad Motyka, MH 234, 914-888-5315, [kmotyka@mercy.edu](mailto:kmotyka@mercy.edu)**

**Director of Campus Safety, Cesar Robles, MH 234, 914-674-7185, [crobles5@mercy.edu](mailto:crobles5@mercy.edu)**

**Vice President of Student Affairs, Kevin Joyce, MH-223M, 914-674-7775, [kjoyce@mercy.edu](mailto:kjoyce@mercy.edu)**

### **CAMPUS SEX CRIMES PREVENTION ACT (REGISTERED SEX OFFENDERS)**

The New York State Division of Criminal Justice Services maintains a registry of convicted sex offenders, which is available to local law enforcement agencies. To obtain information about a Level 2 or Level 3 registered sex offender you may:

- 1) Contact the police department in the jurisdiction in which the offender resides and/or in which the college is located.
- 2) Contact **Cesar Robles** Director of Campus Safety at 914-674-7185
- 3) Call the Division’s sex offender registry at 800-262-3257

To obtain information about Level 3 offenders only, you may contact the Division’s sex offender registry web site: [http://www.criminaljustice.ny.gov/nsor/contact\\_sor.htm](http://www.criminaljustice.ny.gov/nsor/contact_sor.htm) and then click on “Search for Level 3 Sex Offenses”.

### **REPORTS OF MISSING STUDENTS**

In accordance with state and federal law, the College maintains protocols for investigating reports of a missing student. A missing student is defined as any Mercy College student residing in on campus student housing who has been reported missing from his or her residence. Reports of a resident student who is believed to be missing for 24 hours should be made to the Assistant Dean of Student Affairs (914-674-7349), Vice President of Student Affairs (914-674-7775), or the Department of Campus Safety (914-674-7225). If a student is reported missing to any other Mercy College entity, that unit will immediately notify Campus Safety. Whenever a student is believed to be missing, Campus Safety, working closely with Student Affairs and Residential Life staff, will commence a logical investigation to determine the possible whereabouts of the student. In the event the resident student is not found after these efforts are undertaken, the Dobbs Ferry Police Department and other relevant municipal authorities will be immediately notified and in all cases, no later than 24 hours. If the Police Department determines that the student should be classified as a missing person, Mercy College will support the investigation by providing whatever assistance is appropriate. The official determination that the student is missing can be made *at any time* depending on the specific circumstances.

### **MISSING STUDENT CONTACT DESIGNATION**

Each student living in on campus student housing has the option of registering a confidential contact person to be notified within 24 hours of the determination that the student is missing. The student has the option of selecting a person other than his/her general emergency contact. The information will be kept confidential and disclosed only in furtherance of a missing person investigation to authorized campus officials or municipal law enforcement. If a student is determined to have been missing for 24 hours and they are less than 18 years of age and not yet emancipated, their parent or legal guardian will be notified in addition to the confidential contact person, if the student has identified one. Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, local law enforcement will be notified once the determination is made that the student is missing.

### **INVESTIGATION OF VIOLENT FELONY OFFENSES**

In accordance with New York State Education Law, the College maintains a plan for the investigation of violent felonies, which includes coordination with appropriate law enforcement agencies. In addition, in compliance with New York State Law and subject to applicable state and federal law, including, but not limited to, the New York State Campus Safety Act and the federal Campus Sexual Assault Victims' Bill of Rights under Title 20 U.S. Code 1092 (f) which gives the victim of a sexual offense the right to decide whether or not to report, the College will notify the appropriate law enforcement agency within 24 hours of receiving a report of a violent felony.

#### **The plan includes the following:**

Upon notification to the Office of Campus Safety that a violent felony offense has occurred at or on the grounds of the College, the primary and immediate objectives are:

- The well-being of the victim and to ensure prompt medical attention, if necessary
- Local law enforcement would be notified to respond
- The College Executive Director for Campus Safety will be notified

Other objectives of the investigation will be:

- Identification and apprehension of the individual(s) responsible
- Identification of witnesses and gathering of statements
- Preservation of the crime scene and safeguarding of evidence

The Campus Safety Officers at the scene will be responsible for these measures until the arrival of local law enforcement; at that time the Police on site will assume responsibility for the scene. Campus Safety will assist as requested and act as the liaison between the Police and the College Community.

The College will, upon written request, disclose to the alleged victim of a crime of violence, or of a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

#### **ADVISORY COMMITTEE ON CAMPUS SAFETY AND SECURITY**

In compliance with the NY State Education Law, Mercy College has formulated an Advisory Committee on Campus Safety, a sub-committee of Mercy College's Environmental Health and Safety Committee. This Committee is comprised of students, faculty, and staff members of the College. The Committee reviews current campus security policies and procedures and makes recommendations for their improvement. It shall also review current policies for:

1. Educating the college community, including security personnel and those who advise or supervise students, about sexual assault.
2. Reporting sexual assaults and dealing with victims during investigations.
3. Referring complaints to the appropriate authorities.
4. Counseling victims.
5. Responding to inquiries from concerned persons.

The Committee reports in writing to the College President on its findings at least once each academic year.

#### **WEAPONS ON CAMPUS**

Firearms and dangerous weapons/instruments of any type are not permitted on campus, including but not limited to the following: electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, nunchakus or chuka sticks, sand bag, sand club, wrist-brace type slingshot or slingshot, shiriken or "Kung Fu star". In certain circumstances, an exception can be made for the possession of a firearm for a carrier who possesses a permit and with valid reason shown, if there is advanced written approval from the Vice President for Operations and Facilities. The use or sale of firearms or other dangerous weapons by anyone is a violation of state and federal law, as well as a violation of the Student Code of Rights and Responsibilities.

**DAILY CRIME AND FIRE LOGS**

The Department of Campus Safety maintains a daily log of crimes and fire incidents that occur on campus. All reportable offenses, whether they are Clery classified or not, are logged—provided that they have occurred within the reportable geography (on campus and public property immediately adjacent to the campus) and include the following information: 1) date crime was reported, 2) date and time of the incident, 3) the nature of the crime, 4) the general location of the crime, 5) the disposition, if known and 6), special notes. The Dobbs Ferry log is kept in the offices of the Department of Campus Safety, Main Hall Room 234. All other individual campus logs are kept at the security desks in the lobbies and are available for inspection during regular business hours. The logs are updated less than two business days after the latest report comes in unless disclosure is prohibited by law or would jeopardize the confidentiality of the victim. The logs contain the most recent 60 days' worth of data. If you wish to review entries as far back as 7 calendar years, please make this request to the Department of Campus Safety either in person or by calling the office at 914-674-7185. Your request will be granted within two regular business days.

**HATE CRIMES AND BIAS-RELATED INCIDENTS**

Bias or hate crimes are crimes motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, disability or alienage. Bias-related incidents are behaviors which constitute an expression of hostility against the person or property of another because of the targeted person's race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, disability or alienage.

According to New York Penal Law Section 485, a person commits a hate crime when he or she commits a specified criminal offense and either: (1) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or (2) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

Examples of hate crimes may include, but are not limited to: threatening phone calls, hate mail (including electronic mail), physical assaults, vandalism, destruction of property, and fire bombings.

A SPECIFIED OFFENSE is an offense defined by any of the following provisions of the NY State Penal Law:

Assault 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> degree, Aggravated assault upon a person less than eleven years old, Menacing 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, degree, Reckless endangerment 1<sup>st</sup>, 2<sup>nd</sup> degree, Manslaughter 2<sup>nd</sup> degree, sub.1, 1<sup>st</sup> degree sub. 1,2,3,4, Murder 2<sup>nd</sup> degree, Stalking 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree, Rape 1<sup>st</sup> degree, sub.1, Criminal sexual act 1<sup>st</sup> degree, Sexual abuse 1<sup>st</sup> degree, Aggravated sexual abuse 1<sup>st</sup> degree, sub.1a, 2<sup>nd</sup> degree, sub.1, Unlawful imprisonment 1<sup>st</sup>, 2<sup>nd</sup> degree, Kidnapping 1<sup>st</sup>, 2<sup>nd</sup> degree, Coercion 1<sup>st</sup>, 2<sup>nd</sup> degree, Criminal trespass 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> degree,

Burglary 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> degree, Criminal mischief 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree, Arson 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree, Petit larceny, Grand larceny 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree, Robbery 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> degree, Harassment 1<sup>st</sup> degree, Aggravated harassment, sub. 1, 2, 4, or any attempt or conspiracy to commit any of the foregoing offenses.

The following represent the penalties for the commission of “hate crimes” in New York State if the *specified offense* is a class B felony:

<u>Maximum term</u>	<u>Penal law section</u>
6 years	70.00
8 years	70.02
12 years	70.04
4 years	70.05
10 years	70.06
20 years	any A1 felony

Students and employees who commit bias crimes are also subject to sanctions up to and including suspension, expulsion, or termination of employment, in accordance with the relevant disciplinary procedure. In order to effectively handle incidents of bias related crimes and prevent future occurrences of such crimes, victims or witnesses of a hate crime are encouraged to immediately report incidents by contacting the Executive Director for Campus Safety, the Vice President of Student Affairs (for student complainants), or the Executive Director of Human Resources (for employee complainants). Student victims of bias crime can also avail themselves of counseling and support services through the College’s Health and Wellness or Counseling offices.

### SECURITY AWARENESS AND CRIME PREVENTION ACTIVITIES

Members of the College Community are urged to secure their valuables and be aware of their surroundings in order to safeguard their persons and individual property. To assist in this endeavor, the Department of Campus Safety participates in presentations held by Enrollment Services and other Mercy College departments that are provided to students, faculty, and staff. Information on safety and security is provided and emphasized via posters, the Campus Safety website, oral presentations, and crime alerts. In addition, the Department of Campus Safety independently conducts or provides training to the Community on active shooter and first aid topics.

All incoming students receive information about campus crime prevention programs during initial orientation—the third week of August each year. During orientation programs for residents, seminars are presented which address sexual assault, fire safety and other personal safety topics. Students are informed of many personal safety services available on campus, which include counseling, mental health services and emergency medical treatment. Employees receive similar information during the new employee orientation.

The Mercy College Department of Campus Safety can provide additional information on crime prevention on request.

## **MERCY COLLEGE POLICY ON DRUGS AND ALCOHOL**

### **I. POLICY STATEMENT**

Mercy College is committed to providing a safe, healthy, and productive educational and work environment for its students and employees. In furtherance of this goal and in keeping with the requirements of the Drug-Free Schools and Communities Act and the Drug-Free Workplace Act, all students and employees are required to abide by the Mercy College Drug and Alcohol Policy. Individuals who violate this policy are subject to disciplinary sanctions including suspension and expulsion for students, and discharge for employees. Recognizing that drug and alcohol abuse are serious health concerns, this policy includes support resources for students and employees.

### **II. DISTRIBUTION OF THIS POLICY**

All students are provided with a copy of this policy in the Student Handbook for each academic year. Students with questions regarding this policy, its administration, or issues related to drug or alcohol use should raise their concerns with the Office of Community Standards and Conduct without fear of reprisal at (914) 888-5173.

All employees are provided with a copy of this policy upon hire for signature indicating their acknowledgement of having received, read and understood the policy. A copy of this policy and related notice is sent to all employees on an annual basis. Employees with questions regarding this policy, its administration, or issues related to drug or alcohol use should raise their concerns with the Office of Human Resources without fear of reprisal at (914) 674-7389.

### **III. ILLEGAL DRUGS AND DRUG PARAPHERNALIA**

The possession, use, manufacturing, selling, or distribution of illegal drugs or drug paraphernalia, as well as marijuana, is prohibited on all Mercy College property, in any Residential Area (which includes the Mercy College Residence Hall and any off-campus locations used for student housing) and at any off-campus College activity or event. The term illegal drug includes, without limitation, prescription medications or other drugs that are being used, possessed or distributed illegally. Such conduct may also violate a number of state and federal criminal laws that may subject violators to fines or terms of imprisonment.

In addition to marijuana being prohibited on any of Mercy's campuses or at any Mercy events, in the State of New York, it is illegal for any person under the age of 21 to possess or consume marijuana. It is also illegal to obtain or use false or fraudulent proof of age obtained for the purposes of purchasing or consuming marijuana, to misrepresent one's age or the age of another as being 21 or over, or to drive while ability impaired under or over the age of 21.

### **IV. ALCOHOLIC BEVERAGES**

In the State of New York, it is illegal for any person under the age of 21 to possess or consume alcohol. It is also illegal to obtain or use false or fraudulent proof of age obtained for the purposes of purchasing or consuming alcohol, to misrepresent one's age or the age of another as being 21 or over, to drive while ability impaired or while intoxicated, or to drink and drive under or over the age of 21.

The possession, use, manufacturing, selling, or distribution of alcoholic beverages is prohibited on all Mercy College property, in any Residential Area (which includes the Mercy College Residence Hall and any off-campus locations used for student housing), and at any off-campus College activity or event. The College recognizes, however, that there may be activities and events where the College, or schools, departments or divisions may wish to serve alcohol for those employees, and in rare cases, students 21 years of age or older, to consume in a responsible manner. In such cases, the department, division, or organization sponsoring the activity is responsible for enforcing strict adherence to New York State Alcohol Beverage Control Laws and other laws of the State of New York. Any person or organization on campus who wants to serve alcohol at an event attended by students needs to consult with the Vice President for Student Affairs to ensure appropriate guidelines are followed, to include checking IDs for age, setting a drink minimum, and providing food and non-alcohol beverages.

These guidelines are intended to discourage the irresponsible distribution and consumption of alcoholic beverages as well as underage access to alcoholic beverages. Students and employees have the personal responsibility of discouraging drunkenness. Also, at certain College-sponsored events, the responsible use of alcohol on campus in moderation by persons who are not students at the College, and who are of legal drinking age, will be permitted.

## **V. REPORTING VIOLATIONS**

Any employee or student who knows or believes that a violation of the Mercy College Drug and Alcohol Policy has taken place may file a complaint with the Office of Community Standards and Student Conduct or the Office of Human Resources.

## **VI. VIOLATIONS AND SANCTIONS FOR STUDENTS**

In the case of a student, allegations of violation of this policy will be investigated and adjudicated in accordance with the disciplinary procedures set out in the Student Handbook.

### **A. DRUG VIOLATIONS AND SANCTIONS FOR STUDENTS**

The possession, use, or distribution of illegal drugs, as well as marijuana, or drug paraphernalia is prohibited on all Mercy College property, in any Residential Area (which includes the Mercy College Residence Hall and the off-campus hotels) and at any off-campus College activity or event. The term illegal drug includes, without limitation, prescription medications or other drugs that are being used, possessed, or distributed illegally. Such conduct may also violate a number of state and federal criminal laws that may subject violators to fines or terms of imprisonment.

In the State of New York, it is illegal for any person under the age of 21 to possess or consume marijuana. It is also illegal to obtain or use false or fraudulent proof of age obtained for the purposes of purchasing or consuming marijuana, to misrepresent one's age or the age of another as being 21 or over for purposes of purchasing or consuming marijuana, and to drive under or over the age of 21 while ability impaired or while intoxicated. Any such behavior by a student which is brought to the attention of a College official, will be treated as a violation of this policy.

Students will be ineligible for financial aid if they are convicted of an offense under federal or state law involving possession or sale of a controlled substance, provided that the conduct occurred while the student was enrolled and receiving federal financial aid. Ineligibility for financial aid will run from the date of conviction for the following periods: (a) for drug possession: a first offense carries a one-year disqualification, a second offense carries a two-year disqualification, and a third offense makes the student

ineligible indefinitely, and (b) for sale of a controlled substance: a first offense carries a two-year disqualification, and a second offense makes the student ineligible indefinitely.

A student can regain eligibility by successfully completing an approved drug rehabilitation program.

Mercy College has the obligation to protect the interests and rights of students as well as those of the College community as a whole. At the same time, the College understands that drug abuse may be a symptom of deeper personal and emotional problems. The College may also offer assistance to students in such circumstances and emphasizes the reciprocal responsibility of the individual to seek such help.

Violations of the Illegal Drugs and Drug Paraphernalia policy include, but are not limited to, the following behaviors by students:

- **Level I:** (a) Possession or use of drug paraphernalia. Drug paraphernalia includes, but is not limited to: roach clips, bongs, pipes, and hookahs. Minimum of a \$25.00 fine, assigned community service, or a combination thereof, and letter of reprimand for a Level I illegal drugs/drug paraphernalia violation.
- **Level II:** (a) Possession or use of illegal drugs, including marijuana, or (b) the second instance of a Level I violation. Minimum \$100.00 fine, assigned community service, illegal substance education module, E-Toke, or a combination thereof, and disciplinary probation for a Level II drug violation.
- **Level III:** (a) The third or more instance of a Level I violation, or (b) the second or more instance of a Level II violation. Minimum \$200.00 fine, assigned community service, illegal substance education module, E-Toke, or a combination thereof, and disciplinary probation for a Level III drug violation.
- **Level IV:** (a) Sale, manufacture or distribution of illegal drugs, including marijuana, or (b) the second instance of a Level III violation. Minimum \$300.00 fine and removal from housing and/or suspension or expulsion from the College for a Level IV drug violation.

Upon finding credible evidence of the above listed violations by any student, the College will take appropriate disciplinary action, as set out in the Student Handbook, and may impose sanctions up to and including probation, suspension, or expulsion. Mercy College will also cooperate fully with law enforcement agencies in the investigation and prosecution of drug-related crimes that occur on College premises or at College-related events and activities or that otherwise affect the College community.

## **B. ALCOHOL VIOLATIONS AND SANCTIONS FOR STUDENTS**

Students have the personal responsibility of discouraging drunkenness. In the State of New York, it is illegal for any person under the age of 21 to possess or consume alcohol. It is also illegal to obtain or use false or fraudulent proof of age obtained for the purpose of purchasing or consuming alcohol, to misrepresent one's age or the age of another as being 21 or over for purposes of purchasing or consuming alcohol, to drive while ability impaired or while intoxicated, or to drink and drive under or over the age of 21. Any such conduct by a student, which is brought to the attention of a College official, will be treated as a violation of this policy.

Violations involving alcohol by students of the Mercy College Drug and Alcohol Policy include, but are not limited to, the following behaviors:

- **Level I:** Student is found in the presence of alcohol or empty alcohol containers in any campus location, including any Residential Area. Minimum of a \$25 fine, assigned community service, or a combination thereof, and letter of reprimand for a Level I alcohol violation.
- **Level II:** (a) Possession or consumption of alcohol in any campus location, including any Residential Area, (b) presence at or hosting of a large or disruptive gathering where alcohol is present, or (c) the second instance of a Level I violation. Minimum of a \$100.00 fine, assigned community service or a combination thereof, completion of an alcohol education module, and disciplinary probation for a Level II alcohol violation.
- **Level III:** (a) Visible intoxication in any campus location, including any Residential Area, (b) participation in or presence at contests involving the consumption of alcohol or the possession of any paraphernalia related to such contests, including the playing of water pong, when alcohol is also found in the student's room at the time of water pong activity, or (c) the second instance of a Level II violation. Minimum of a \$200.00 fine, assigned community service, or a combination thereof, completion of an alcohol education module, disciplinary probation and possible notice to student's parents for a Level III alcohol violation.
- **Level IV:** (a) Possession of kegs, grain alcohol or common source containers, (b) possession or use of funnels, (c) the third instance of a Level II violation, or (d) the second instance of a Level III violation. Minimum of a \$300.00 fine, assigned community service, one (1) year disciplinary probation, possible removal from the Residential Area, possible suspension or expulsion from the College, possible notice to the student's parents, or mandatory attendance in an alcohol awareness class for a Level IV alcohol violation.

Upon finding credible evidence of the above listed violations by any student, the College will take appropriate disciplinary action, as set out in the Student Handbook, and may impose sanctions up to and including probation, suspension or expulsion. Mercy College will also cooperate fully with law enforcement agencies in the investigation and prosecution of drug-related crimes that occur on College premises or at College-related events and activities or that otherwise affect the College community.

## VII. VIOLATIONS AND SANCTIONS FOR EMPLOYEES

Mercy College has a vital interest in ensuring a drug-free, safe, and healthy workplace for our employees in the provision of quality services to fulfill the college mission. The unlawful presence of controlled substances in the workplace conflicts with these vital interests and contributes a violation of the community trust.

Employees may not use, posses, or be under the influence of illegal drugs, marijuana and/or alcohol at work on Mercy College premises or while conducting business related activities elsewhere. The use, possession, manufacture, distribution, and/or selling of alcohol, marijuana or illegal drugs is strictly prohibited on Mercy property and/or when on official business.

Employees may not come to work under the influence of alcohol, marijuana or drugs even if consumed off premises.

If an employee is required to take a controlled substance for medical reasons that presents symptoms of intoxication or impairment, the employee will be required to provide appropriate documentation from a physician to the Office of Human Resources. If, in the judgement of the Office of Human Resources in consultation with the employee's supervisor, the employee cannot adequately perform the functions of their job, the employee will be sent home until the employee can demonstrate that they are able to perform the essential functions of their job.

Employees suspected of being under the influence of a controlled substance, marijuana or alcohol may be required to submit to a drug/alcohol screening and if such screening confirms the suspicion, they will be relieved of duty and face disciplinary action up to and including termination.

Employees convicted of the sale or possession of an illegal substance while employed by Mercy College will be terminated. Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify Mercy College of any criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

### **VIII. HEALTH RISKS ASSOCIATED WITH ALCOHOL ABUSE AND THE ILLEGAL USE OF DRUGS**

Mercy College has an obligation to protect the interests and rights of students and employees. The College understands that drug abuse may be a symptom of deeper personal and emotional problems. The College may also offer assistance to students and employees in such circumstances and emphasizes the reciprocal responsibility of the individual to seek such help.

The health consequences of alcohol and substance abuse may be immediate and unpredictable, such as fatalities associated with alcohol and drug overdoses, or more long-term, such as liver and brain damage associated with the prolonged use of alcohol. The following are some of the health consequences of alcohol and other drug use:

Alcohol: Short-term effects include depressed central nervous system, impeded attention and memory, impaired judgment, impaired vision, impairment of other senses, irregular sleep, impaired driving, unconsciousness, and, with excessive use, death. Long-term effects of heavy use include damage to the liver, heart and pancreas, irritation of the gastrointestinal system, high blood pressure, oral cancer, malnutrition and nutritional deficiencies and lowered resistance to disease. Use during pregnancy can cause severe damage to the developing fetus.

Depressants: Short-term effects include depressed central nervous system, mildly impaired coordination, impaired judgment and short-term memory, impaired driving, and reduced anxiety/lethargy. In high doses, short-term effects can include irregular breathing, impaired reflexes, coma and death. Long-term effects of heavy use include disturbed sleep, chronic fatigue, anxiety, restlessness and depression, slower reflexes and impaired coordination, reduced sex drive and/or impotence, menstrual irregularities, hostility and mood swings and cross-tolerance to other depressants. Use during pregnancy can harm the developing fetus.

Hallucinogens: Because some of these substances are synthetic, they may be particularly potent and may contain impurities. Short-term effects include changes in perception, mood, thought and brain function, loss of judgment, disorientation, mild confusion and/or hallucinations, visual disturbances, increased heart rate, blood pressure and body temperature, nausea, vomiting and/or abdominal discomfort. In high doses,

some hallucinogens can cause death. Over the long term, heavy use can precipitate severe psychotic episodes. In addition, flashbacks can occur spontaneously. Their effects during pregnancy are not fully understood.

Opiates: Short-term effects include impaired driving. Higher doses can cause drowsiness, sedation, dizziness or euphoria. Some may have a stimulating effect, with increased heart rate, blood pressure, tremors and seizures. Very high doses can cause decreased heart rate and blood pressure, muscle contraction, cyanosis and death. Over the long term, heavy use can result in impaired vision, chronic constipation, a higher risk of pulmonary complications, and mood swings. Needle use can lead to abscesses, collapsed veins and infections. Use during pregnancy can harm a developing fetus and create a higher risk of premature birth, miscarriage and stillbirth.

Marijuana: Short-term effects are the same as many of the short-term effects of depressants, stimulants and hallucinogens. They can include impaired judgment, short-term memory loss, impaired intellectual performance, reddening of eyes, sensory distortion, impaired coordination, drowsiness, and impaired driving. Short-term use can also aggravate pre-existing heart problems and mental health problems. Over the long term, effects include respiratory damage, impairment of memory and concentration and interference with the physical, psychological and social development of young users. The effect of daily use during pregnancy may cause problems in the developing fetus, but the effect is not fully known.

Stimulants: Short-term effects include impaired driving, impaired judgment, rapid breathing, increased heart rate and palpitations, anxiety, restlessness, hostility, paranoia and confusion, and visual and auditory hallucinations. Overdose can lead to death. Over the long term, use of stimulants can cause severe anxiety and paranoia, impaired coordination, tremors, high blood pressure, malnutrition, chronic sleeplessness, and damage to internal organs, such as the brain, heart, lung, liver and kidneys. Chronic use can lead to death. Use during pregnancy can cause damage to the developing fetus.

## IX. LEGAL SANCTIONS

Federal and New York State laws make it a criminal offense to manufacture, distribute, dispense, possess with intent to distribute, or simply possess a controlled substance. Such substances include but are not necessarily limited to heroin, cocaine, methamphetamine, ecstasy, LSD, PCP, and a number of common pharmaceutical drugs if unlawfully obtained. The sanctions for violation of these laws, ranging from community service and monetary fines to life imprisonment, depend upon the particular offense, the drug type, and the drug quantity. Students convicted under these statutes may also forfeit federal financial aid eligibility.

An individual need not be in actual physical possession of a controlled substance to be guilty of a crime. The unlawful presence of a controlled substance in an automobile is presumptive evidence of knowing possession of such substance by each passenger unless the substance is concealed on the person of one of the occupants. Similarly, the presence of certain substances in plain view in a room can sometimes be presumptive evidence of knowing possession of such substance by anyone in close proximity.

Further, pursuant to New York State law:

- Any person under age 21 who is found to be in possession of alcohol with the intent to consume it may be punished by a fine and/or required to complete an alcohol awareness program and/or to provide up to 30 hours of community service. Alcoholic Beverage Control Law, § 65-c.

- Giving or selling an alcoholic beverage to a person less than age 21 is a class A misdemeanor punishable by a sentence of imprisonment of up to one year. Penal Law § 260.20.
- Any person who operates a motor vehicle while intoxicated or while his ability to operate such vehicle is impaired by the consumption of alcohol or drugs, is subject to suspension or revocation of driving privileges in the State, monetary fines up to \$1,000, and imprisonment for up to one year. Vehicle and Traffic Law § 1192.
- A person under 21 who presents false written evidence of age for the purpose of purchasing or attempting to purchase any alcoholic beverage may be punished by a fine, community service and/or completion of an alcohol awareness program. Alcoholic Beverage Control Law § 65- b(1). Possessing such false evidence may also be criminal possession of a forged instrument, which is a felony in New York, punishable by a fine of up to \$5000, imprisonment up to 7 years, or both. Penal Law § 170.25.
- Appearing in public under the influence of narcotics or a drug other than alcohol to the degree that a person may endanger him or her or other persons or property, or annoy persons in his vicinity, is a violation, punishable by a fine and imprisonment up to 15 days. Penal Law § 240.40.

## **X. RESOURCES FOR HELP WITH DRUG AND ALCOHOL ABUSE**

### **A. STUDENT RESOURCES**

Students in need of assistance with respect to questions or personal problems regarding alcohol or other drugs should contact the Counseling Center located at the Dobbs Ferry Campus in Main Hall, Room 108. The center is open weekdays from 9 a.m. to 5 p.m. Short-term personal counseling and crisis intervention are available for alcohol and substance abuse, and counselors can refer students to licensed professionals who can provide alcohol and substance abuse treatment or recovery information. Students may meet with counseling staff on the Dobbs Ferry, Bronx, or Manhattan campus. To schedule an appointment with a counselor, students can email and/or call the Counseling Center Main number (all campuses) at (914) 888-5150 or [counselingcenter@mercy.edu](mailto:counselingcenter@mercy.edu).

Mercy provides two online education modules for students, one for alcohol and the other for marijuana. Both online modules are available on the Mercy College website within the Health and Wellness Center page:

e-CHUG: The electronic “Check-Up to Go” is a brief, self-assessment that provides you with accurate, detailed and personalized feedback on your use of alcohol, and specific information and helpful resources in the Mercy College community. <http://interwork.sdsu.edu/echeckup/usa/alc/coll/mercy>

e-TOKE: The electronic “THC Online Knowledge Experience” is a brief, self-assessment that provides you with accurate, detailed and personalized feedback on your use of marijuana, and specific information and helpful resources in the Mercy College community. <http://interwork.sdsu.edu/echeckup/usa/mj/coll/mercy>

The e-CHUG program must be completed by all Residential students in order to be cleared to move into the Residence Halls. All student athletes are required to complete the module as well. Students who are found to be in violation of alcohol policies must complete the e-CHUG module as a part of the sanctions for the violation.

The e-TOKE module is used as an education sanction for students who are found to be in violation of illegal substance policies pertaining to the use of marijuana specifically.

**B. EMPLOYEE RESOURCES**

Employees who need help in dealing with alcohol or drug abuse should contact their health insurance provider, the (EAP) Employee Assistance Program (ComPsych at 1-800-864-3577) or the Office of Human Resources for information, including information on treatment facilities. All requests for information relating to alcohol or drug abuse will remain confidential. It is the employee's responsibility to seek assistance from the EAP prior to reaching a point where his or her judgment, performance, or behavior has led to imminent disciplinary action. Participation in the EAP after the disciplinary process has begun may not preclude disciplinary actions up to and including termination of employment.

**C. COMMUNITY RESOURCES FOR STUDENTS AND EMPLOYEES**

The following list contains confidential resources for anyone seeking information on alcohol and substance abuse prevention, education, counseling and treatment referrals.

- New York State Office of Alcoholism and Substance Abuse Services Hot Line: 1-877-846-7369 or text HOPENY (467369)
- New York City Drug and Alcohol Use Services: 1-888-NYC-WELL (1-888-692-9355)
- Westchester County Department of Community Mental Health, Office of Alcohol and Substance Abuse: 1-914-995-5220
- The Alcoholism Council of New York Help Line: 1-212-252-7022
- Alcoholics Anonymous: 1-212-647-1680 or [www.nyintergroup.org](http://www.nyintergroup.org)
- Cocaine Anonymous: 1-877-958-8012 or [www.canewyork.org](http://www.canewyork.org)
- Narcotics Anonymous: 1-212-929-6262 or [www.na.org](http://www.na.org)
- LIFENET Mental Health Association of NYC: 1-800-LIFENET (1-800-543-3638) or [www.mhanys.org](http://www.mhanys.org)
- Pills Anonymous: 1-212-874-0700

**XI. AMNESTY FOR ALCOHOL AND DRUG USE**

The health and safety of every student at Mercy College is of the utmost importance. Mercy College recognizes that students who have been drinking and/or using drugs at the time that sexual harassment or sexual violence occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Mercy College strongly encourages students to report incidents of sexual harassment or sexual violence. Therefore, a complainant or bystander acting in good faith who reports any incident of sexual harassment or sexual violence to Mercy College or law enforcement authorities will not be subject to the College's Code of Conduct for violations of Mercy's Drug and Alcohol Policy occurring at or near the time of the commission of the sexual harassment or sexual violence. The law does not protect those who sell or distribute controlled substances, have open warrants or who violate parole or probation.

The New York State 911 Good Samaritan Law allows people to call 911 without fear of arrest if they are having a drug or alcohol overdose that requires emergency medical care or if they witness someone overdosing. The law does not protect those who sell or distribute controlled substances, have open warrants or who violate parole or probation.

## **PROGRAMS TO PREVENT SEXUAL HARASSMENT, SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

### **Student Educational Programming**

The Title IX Coordinator, in coordination with the Office of Student Affairs, Department of Campus Safety, the Office of Human Resources and other applicable offices, is responsible for ensuring that the College engages in a comprehensive student orientation and ongoing education campaign, using multiple methods, to educate members of the College community about sexual misconduct, including domestic violence, intimate partner violence, stalking and sexual assault. The programming is: 1) be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs and informed by research or assessed for value, effectiveness, or outcome; and 2) considers environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels. Some of the information that is imparted includes, but it not be limited to:

- 1) All of the information contained in the Sexual Misconduct Policy, including: prohibited conduct, resources offered while the College takes administrative and/or conduct action against an accused; that College policies apply equally to all students regardless of sexual orientation, gender identity or gender expression; the role of relevant College officials relating to this Policy; and the consequences and sanctions for individuals who commit these crimes and code of conduct violations;
- 2) Awareness of violence, its impact on victims and survivors and their friends and family, and its long-term impact.
- 3) Bystander intervention and the importance of taking action to prevent violence when one can safely do so;
- 4) Risk assessment and reduction including, but not limited to, steps that all members of the Mercy community can take to lower the incidence of violations, which may contain information about clear and open communications about sex and each party's expectations, the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of College officials who can answer general or specific questions about risk reduction.

#### **A) Required educational programming**

The College provides in-person, remote, and electronic educational programming on sexual violence awareness and prevention to :

- 1) First year and transfer students;
- 2) Student leaders and officers of student organizations recognized by the College, as well as those seeking recognition by the College;
- 3) Student athletes; and

4) students residing in College-sponsored housing .

B) Other education

The College offers educational programming to students not subject to required training, including international students, students that are also employees, students in student organizations, and online and distance learning students.

**Faculty and Staff Training**

The Title IX Coordinator, in coordination with the Office of Student Affairs, Department of Campus Safety, the Office of Human Resources and other applicable offices, offers annual training to all new employees and current employees, including but not limited to faculty, staff, administrators, security officers, athletic staff and residence life staff regarding all aspects of this policy and on sexual misconduct (including domestic violence, dating violence, stalking and sexual assault).

**Sexual Assault Awareness and Prevention Information**

- Affirmative Consent Mercy College requires individuals engaged in sexual activity to use affirmative consent, which is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression
- Sexual conduct in the absence of affirmative consent is sexual assault regardless of whether the person engaging in sexual behavior without mutual consent is a stranger, acquaintance, or an intimate partner.
- Consent to one act, such as kissing, is not consent to other acts, such as sexual intercourse. The person seeking to engage in sexual behavior must receive consent from their partner at every stage including, but not limited to, sexual intercourse.
- Under the **New York Penal Law**, lack of consent to a sexual contact may be demonstrated in the following ways: (1) forcible compulsion including the use of physical force or threat (express or implied) which places the person in fear of physical injury to self or another; (2) incapacity to consent on the part of the victim; (3) circumstances in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or (4) circumstances in which the victim clearly expressed by words or actions that he or she did not consent to engage in such sexual act and a reasonable person would have understood such person's words or actions as an expression of lack of consent to such conduct.
- A person is deemed incapable of giving consent if that person is (a) under the age of 17, (b) mentally incapacitated (which may include incapacity due to the victim's ingestion of alcohol or drugs), (c) physically disabled, or (d) physically helpless (asleep, unconscious

or for any other reason physically unable to communicate unwillingness to act, which may also include incapacity due to the victim's ingestion of alcohol or drugs).

### Safety Measures

- Always keep your apartment door and windows locked. Always close your shades or blinds at night.
- Be alert and aware of your surroundings, both inside and outside. Pay attention to people, lighting, and access to phones and exits.
- If you ever feel unsafe or uncomfortable, go to an occupied office, store, or towards people.
- Use elevators, stairs and restrooms in well-trafficked areas.
- While on campus contact the Department of Campus Safety for an escort.
- Walk with a friend. Avoid deserted parking lots, laundry rooms, and other poorly lit locations.
- Be aware of the impact of alcohol and other drugs on your judgment and that of your partner's. Alcohol and drugs frequently play a role in sexual assault, although sexual assault is never the victim's fault.
- Do not leave a drink unattended or accept one from someone you don't know. Date rape drugs can easily be added to any beverage.
- Date rape drugs are categorized as drugs, that produce various effects on the body, including sedation, and are often used in rape situations. They are often odorless, colorless, and tasteless.
- Be aware of your surroundings. Do not go to a secluded place with someone you've just met or don't know well. Suggest meeting at a public place.
- Do not go to your date's residence or invite them to yours if you are just getting to know the individual.

### What to Do if You Are the Victim of Sexual Assault

- After an attack, try to be as calm as possible in order to think clearly. Get to a safe place and call for help immediately. If you are in the building, contact Campus Security immediately at 914-674-9999; anywhere else call 911, call a relative or a friend or a rape crisis center. A resource list is provided in this report.
- Remain in the same condition as when the attacker left. Do not change, wash, or destroy any clothing or any article that may be evidence.
- Do not wash, douche or comb your hair.
- Have a medical/gynecological exam at the nearest hospital emergency room as soon as possible. The doctor should note and treat any injury and take measures to combat the possibility of sexually transmitted diseases or pregnancy.
- Show police and medical personnel any bruises or injuries, however minor, resulting from the attack. If possible, photograph any bruises or injuries.
- Leave the crime scene exactly as it is. Do not touch, clean up, or throw anything away.
- Give any clothing that was stained or torn (including undergarments) during the crime to the police.

- When calm, write down or share with the police every detail about the incident, including: who, what, where, when, and how; what the attacker looked like (height, weight, clothing, type of build, color of skin, hair, eyes, facial oddities, scars jewelry, tattoos etc.); description of any vehicle used or the direction you last saw the attacker running; what kind of force or coercion was used; any objects touched, taken, or left by the attacker; if the attacker said anything, try to remember the words, the grammar, any accents or speech defects; and if there were witnesses, list who and where they might be.
- Seek psychological support as well as medical attention. Even though the actual incident is over, you may suffer from rape trauma syndrome, which includes a variety of difficulties commonly experienced after a sexual assault
- A student can call the local police department or 911, or go directly to a hospital. If the student wishes, Safety and Security officers will call 911 on their behalf. It is important to note that if you are a victim of a sex offense, **do not destroy any evidence (including clothing) and do not take a shower or bath.**

It is important that such physical evidence be preserved in order to assist with any ensuing criminal investigation. If the student believes that they may be the victim of rape by being drugged, they should go directly to a hospital to receive a toxicology examination since such drugs only remain in a person's system for a short period of time. The Department of Campus Safety will assist with notification of other law enforcement authorities and/or medical professionals if the student so chooses.

Files relating to sex offenses are kept confidential by the Office of Safety and Security, the Office of Student Affairs, and the Title IX Coordinator unless otherwise required by law or Mercy policy.

#### Bystander Intervention

When safe to do so, Mercy College encourages all members of the College community to take reasonable and prudent actions to prevent and stop any acts of sexual misconduct and sexual violence that they may witness. These actions can include direct intervention, calling law enforcement, or seeking assistance from a person in authority. In addition, the College encourages all community members to report an incident of sexual misconduct or sexual violence that they observe or become aware of to the Title IX Coordinator, the Department of Campus Safety, and/or Student Affairs.

### DEFINITIONS OF SEX OFFENSES

#### Under the Violence Against Women Reauthorization Act (VAWA)

##### **Domestic Violence**

According to federal statute, "domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of [New York], or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of [New York]." 42 U.S.C. § 13925(a).

## **Dating Violence**

According to federal statute, “dating violence” means violence committed by a person--

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and  
(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship
  - (ii) The type of relationship
  - (iii) The frequency of interaction between the persons involved in the relationship.
- 42 U.S.C. § 13925(a).

Mercy College further defines Dating, Domestic and Intimate Partner Violence as:

A pattern of coercive behavior that can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an intimate partner. Such violence may occur in all kinds of intimate relationships, including married couples, people who are dating, couples who live together, people with children in common, same-sex partners, and people who were formerly in a relationship with the person abusing them.

## **Stalking**

According to federal statute, stalking is “engaging in a course of conduct directed at a specific person that would cause a reasonable person to--

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.” 42 U.S.C. § 13925(a).

Mercy College further defines Stalking as:

Intentionally engaging in a course of conduct directed at a specific person that:

- (1) Is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person’s immediate family or a third party with whom such person is acquainted; or
- (2) Causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person’s immediate family or a third party with whom such person is acquainted; or
- (3) Is likely to cause such person to reasonable fear that her/his employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person’s place of employment or business, and the actor was previously clearly informed to cease that conduct.

## **Under New York Law**

Under Article 130 of the New York State Penal Law, it is a sex offense to engage in sexual contact or to engage in sexual intercourse, sodomy or sexual abuse by contact without the consent of the victim or where the victim is incapable of giving consent. Criminal sex offenses are classified in degree according

to the seriousness of sexual activity, the degree of force used, the age of the victim and the physical and mental capacity of the offender and victim.

**See chart on the following page for a list of some of the major sex offenses and their maximum penalties under New York State Law.**

**New York State Penal and Criminal Procedure Laws**

<b>Crime</b>	<b>Illegal Conduct</b>	<b>Criminal Sanctions</b>
<u>Rape in the first degree</u> (PL § 130.35)	A person is guilty when he or she engages in sexual intercourse with another person by forcible compulsion, with a person who is incapable of consent by reason of being physically helpless (e.g. being asleep, unconscious or due to alcohol or drug consumption), who is less than 11 years old or less than 13 and the actor is 18 or older.	Is a class B felony, with penalties up to 25 years in prison.
<u>Rape in the second degree</u> (PL § 130.30)	A person is guilty when being 18 years old or more, he or she engages in sexual intercourse with another person less than 15, or with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated	Is a class D felony, with penalties up to 7 years in prison.
<u>Criminal sexual act in the first degree</u> (PL § 130.50)	A person is guilty when he or she engages in oral sexual contact or anal sexual contact with another person by forcible compulsion, or with someone who is incapable of consent by reason of being physically helpless, or with someone less than 11 or with someone less than 13 and the actor is 18 or older.	Is a class B felony, with penalties up to 25 years in prison.
<u>Forcible touching</u> (PL § 130.52)	A person is guilty when he or she intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire	Is a class A misdemeanor, with penalties up to 1 year in jail.

<u>Sexual abuse in the first degree</u> (PL § 130.65)	A person is guilty when he or she subjects another person to sexual contact: by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the person is less than 11 years old.	Is a class D felony, with penalties up to 7 years in prison.
<u>Aggravated sexual abuse in the first degree</u> (PL § 130.70)	A person is guilty when he or she inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person by forcible compulsion, when the person is incapable of consent by reason of being physically helpless, or when the person is less than 11.	Is a class B felony, with penalties up to 25 years in prison.
<u>Aggravated sexual abuse in the third degree</u> (PL § 130.66)	A person is guilty when he or she inserts a foreign object in the vagina, urethra, penis or rectum of another person by forcible compulsion, when the person is incapable of consent by reason of being physically helpless, or when the person is less than 11.	Is a class D felony, with penalties up to 7 years in prison.
<u>Facilitating a sex offense with a controlled substance</u> (PL § 130.90)	A person is guilty when he or she knowingly and unlawfully possesses a controlled substance or any substance that requires a prescription to obtain to another person, without such person's consent and with intent to commit against such person conduct constituting a felony, and commits or attempts to commit such conduct constituting a felony defined in Article 30.	Is a class D felony, with penalties up to 7 years in prison.

Appendix B of the Mercy College Interim Policy and Procedures Relating to Sexual Misconduct (below) provides a comprehensive list of resources on an off campus including counseling, medical care, victim advocacy, immigration issues, academic support, and legal assistance services for survivors of sexual violence. The Title IX Coordinator can assist victims in locating and obtaining resources on and off campus.



**MERCY COLLEGE**  
**INTERIM POLICY AND PROCEDURES**  
**RELATING TO SEXUAL MISCONDUCT**

Revised and Adopted by the Board of Trustees on July 22, 2020

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Revised and Adopted by the Board of Trustees on July 22, 2020

## **MERCY COLLEGE INTERIM POLICY AND PROCEDURES RELATING TO SEXUAL MISCONDUCT**

### **I. POLICY STATEMENT**

Every member of the Mercy College community, including students and employees, deserve the opportunity to live, learn and work free from sexual harassment and sexual violence.

Accordingly, Mercy is committed to:

- Defining conduct that constitutes prohibited sexual harassment and sexual violence under the relevant laws;
- Providing clear guidelines for students and employees on how to report incidents of sexual harassment and sexual violence and a commitment that a complainants' privacy will be maintained to the greatest extent possible;
- Promptly and accurately responding to and investigating allegations of sexual harassment and sexual violence under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment and sexual violence, and effectively implementing remedies for victims;
- Referring incidents to law enforcement and for disciplinary action when appropriate, and acting to investigate and address any allegations of retaliation;
- Providing ongoing assistance and supportive measures to students and employees who are involved in complaints of sexual harassment and sexual violence, including both complainants and respondents, such as providing information regarding where and how to obtain supportive services both on and off-campus, as well as their rights under federal law, state law and Mercy policy, including filing a complaint with the College as well as with external agencies;
- Providing awareness and prevention information on sexual harassment and sexual violence, and widely disseminating this policy, as well as the Mercy College Student Bill of Rights, disseminating information on resources available both on campus and locally, and implementing training and educational programs on sexual harassment and sexual violence to College constituencies; and
- Gathering and analyzing information and data that will be reviewed in order to improve safety, reporting, responsiveness and the resolution of incidents at Mercy College.

Throughout this Policy, rights afforded and responses by the College will vary depending on whether the complainant is a student or employee, and whether conduct falls squarely

Revised and Adopted by the Board of Trustees on July 22, 2020

under the federal Title IX regulations or not, as a result of the intersection of the various federal, state laws and local laws relating to sexual harassment and sexual violence, including but not limited to: federal laws such as Title IX, Title VII and the Clery Act/Violence Against Women Reauthorization Act of 2013 (“VAWA”); and state laws including Article 129A and 129B of the New York State Education Law, as well as the New York State, New York City and Westchester County Human Rights Laws. The College will make every effort to make clear the policies as it pertains to each area, but in the event of confusion, please contact Mercy’s Title IX Coordinator for clarification.

## **II. PROHIBITED CONDUCT**

### **A. Sexual Harassment and Sexual Violence**

This policy prohibits sexual harassment and sexual violence (together “sexual misconduct”) against Mercy College students and employees.

Sexual harassment is defined under federal law as conduct on the basis of sex that satisfies one of more of the following:

- A school employee conditioning education or work aids, benefits or services on an individual’s participation in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct that a reasonable person would determine is so **severe, pervasive, and objectively offensive** to adversely affect an individual’s participation in education or other Mercy College activities; or
- Sexual assault, dating violence, domestic violence, or stalking (collectively referred herein as “sexual violence.”)

Under New York State Law, for **Mercy College employees**, harassment (including sexual harassment) is against the law whenever an individual is subjected to inferior terms, conditions or privileges of employment. The harassment need not be severe or pervasive in order for the College to be liable, although the actions are defensible if they are not more than “petty slights or trivial inconveniences.”

### **B. Retaliation**

The College prohibits retaliation against any person who reports sexual harassment, or sexual violence, assists someone making such a report, or participates in any manner in an investigation, hearing or resolution of a complaint under this Policy.

The complete definitions of these terms, as well as other key terms used in this Policy, are set forth in Section XV below.

## **III. APPLICABILITY**

This Policy applies to **all students and employees**, including all full-time and part-time faculty and staff at all of Mercy College's campuses and locations.

This Policy applies regardless of an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction when sexual misconduct occurs in the College's educational programs or activities, against a person in the United States.

While this Policy applies to prohibited sex discrimination, the College's *Policy on Equal Opportunity and Non-Discrimination* ("*Non-Discrimination Policy*") addresses all *other* forms of prohibited discrimination. The College strictly prohibits discrimination, harassment and retaliation against any of its students and employees, as well as the following: **student applicants for admission, applicants for employment, and contractors and vendors (defined in Section XV below), collectively referred to herein as "Other Community Members."** Complaints under the College's *Non-Discrimination Policy* can be made here: Discrimination Complaint Form.

If any of these Other Community Members believe they are being subjected to Sexual Harassment or Sexual Violence by a Mercy College student or employee, they may also file a complaint under this Policy and Procedures Relating to Sexual Misconduct.

If Other Community Members engage in behavior prohibited under this Policy, the College will take appropriate action regarding their access to the College campuses.

#### **IV. TITLE IX COORDINATOR**

Mercy College has designated an employee as the "Title IX Coordinator." This employee is responsible for compliance with Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education programs, as well as enforcing New York State's sexual harassment laws, New York Education Laws 129A and 129B, and VAWA. Contact information for the Title IX Coordinator is in Appendix B, page 27.

The Title IX Coordinator has overall responsibility for implementing this Policy, including but not limited to:

- A. Ensuring their contact information is provided to applicants for admission and employment, including name, title, office address, e-mail address, and telephone number of the Title IX Coordinator, and that this information is prominently displayed on the College website.
- B. Receiving all complaints that are not strictly confidential, including providing emergency access in the first instance of disclosure by an individual reporting under this Policy.
- C. Overseeing the investigation of complaints;
- D. Ensuring all persons involved in a complaint are advised of their rights, in writing, under state and federal laws, and this Policy;

- E. Ensuring investigations are handled in a prompt and thorough manner, maintaining confidentiality when requested and where appropriate, and offering privacy for all persons involved to the greatest extent possible;
- F. Keeping the College President and other appropriate senior administrators informed of ongoing investigations, including findings of misconduct and penalties to be imposed under this policy;
- G. Ensuring appropriate student education and employee training, including for Responsible Employees (defined below), Hearing and Appeals Panel members, is conducted;
- H. Ensuring a campus climate assessment is conducted in accordance with relevant law; and
- I. Ensuring the College's compliance with federal and state reporting obligations.

## **V. IMMEDIATE ASSISTANCE IN SEXUAL VIOLENCE CASES**

### **A. Reporting to Law Enforcement**

Students or employees who experience or observe any form of sexual violence on or off-campus (including Mercy College sponsored trips, study abroad or events) are strongly encouraged to immediately report the incident by calling 911, contacting their local police department, state police, or contacting the Mercy College Office of Campus Safety, which is available 24 hours a day, 7 days a week at 914-674-9999 (or x 9999). The College shall have an appropriately trained employee available at all times to provide the complainant with information regarding options to proceed, including information regarding the criminal justice process and the preservation of evidence. Campus Safety officers can also assist the complainant with filing a complaint both on and off-campus, and in obtaining immediate medical attention and other services.

### **B. Obtaining Immediate Medical Attention and Emotional Support**

Mercy College is committed to assisting anyone who experiences sexual violence to seek comprehensive medical attention as soon as possible to treat injuries, obtain preventative treatment for sexually transmitted diseases, and preserve evidence, among other things. For rapes in particular, immediate treatment and the preservation of evidence (i.e. retain the clothing worn during the attack, do not shower, retain text messages, etc.) of the incident are crucial for many reasons, including facilitating an investigation if the complainant decides to file a criminal complaint. In addition, individuals who have experienced or witnessed sexual violence are encouraged to seek emotional support as soon as possible, either on or off-campus.

On-campus resources, at no cost to students, include a nurse/nurse practitioner and registered nurses at the Dobbs Ferry campus and licensed mental health counselors through the Health and Wellness Center. Please visit the College's website at:

<https://www.mercy.edu/student-affairs/health-wellness-center> for more information about obtaining assistance.

Appendix B provides a list of emergency contacts and resources, including rape crisis centers, anonymous and confidential reporting hotlines, mental health counseling, victim advocacy services, legal assistance, and visa immigration services available throughout Westchester County and New York City. This list also includes a designation of which local hospitals are designated as SAFE (Sexual Assault Forensic Examination) hospitals, which are specially equipped to handle rapes, including the gathering of evidence. These services are available to both students and employees.

## **VI. REPORTING SEXUAL HARASSMENT OR SEXUAL VIOLENCE AT MERCY**

Mercy College encourages individuals who have experienced sexual harassment or sexual violence (referred to in this Policy as “Complainants”) to report the incident to campus authorities, even if the incident has already been reported to outside law enforcement authorities, and regardless of whether the incident took place on or off-campus. Individuals who are not Complainants may also report matters to the Title IX Coordinator. Such reporting will enable Complainants to get the support they need and provide the College with the information it needs to take appropriate action. After a report is made, the College shall inform the individual of their legal rights, including but not limited to those listed in Appendix A.

### **A. Filing a Complaint with Campus Authorities**

#### **1. Student Complaints Under Title IX**

In order for the College to pursue an investigation under Title IX, the student Complainant must submit a signed, formal complaint alleging sexual misconduct against a Respondent and requesting that the College investigate the allegations of sexual misconduct. At the time a formal complaint is filed, a complainant must be participating in or attempting to participate in the educational program or activity of the school with which the formal complaint is filed.

A formal complaint can be filed with the Title IX Coordinator in person, by mail, by electronic mail, or by using the online complaint form. The complaint must contain the Complainant’s physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint.

In certain cases where there are complaints from multiple Complainants against one individual, the Title IX Coordinator may file a formal complaint. The filing of a complaint by the Title IX Coordinator, however, does not make the Title IX Coordinator a party in the investigation. In such instances the Title IX Coordinator will remain free from bias and conflicts.

While a formal complaint as described above is necessary for the College to pursue an investigation under this policy, students who experience sexual harassment or sexual violence are encouraged to notify the **Title IX Coordinator** or one of the following campus

authorities or offices who will then notify the Title IX Coordinator: **Office of Campus Safety; Vice President of Student Affairs; or Residence Life staff.**

If a student raises a complaint of sexual harassment or sexual violence, but does not wish to file a formal complaint, the College will make every reasonable effort to provide supportive measures and also determine if the student or employee can seek recourse under a different College policy.

## 2. Employee Complaints of Sexual Harassment or Sexual Violence

Under New York State law, an employee complainant does not have to file a formal grievance of sexual harassment or sexual violence. Nonetheless, the College encourages employees who experience sexual harassment or sexual violence by another employee, student or Other Community Member to notify the **Title IX Coordinator** or one of the following campus officials/offices who will then notify the Title IX Coordinator: **Office of Campus Safety** or the **Department of Human Resources**, so that the College can act promptly to address the complaint.

3. Other Community Members, such as contractors, applicants for employment or admission, should contact the **Title IX Coordinator** or the **Office of Campus Safety**.

## **B. The College's Response Under Title IX and Other Sections of this Policy**

The nature and scope of the College's response will depend on whether the incident meets the parameters of Title IX and this Policy, or a different College policy such as the Student Code of Conduct.

### 1. Student Title IX Complaints

Incidents will be adjudicated under Title IX for student complaints when: the College has actual knowledge of sexual misconduct through a signed complaint form; the alleged conduct occurred within the College's education program or activity; and the alleged conduct was against a person in the United States. See Section VI. G. below for Mercy College employees who are required to report ("Responsible Employees") instances of sexual harassment or sexual violence when they have actual knowledge.

At the time of filing a formal complaint, the student Complainant must be participating in or attempting to participate in the education program or activity of the school with the College. If instances of sexual misconduct involving Mercy students occurs off campus in school-related activities, such as study abroad or athletic travel, for example, complaints should report the matter to the Title IX Coordinator as well, although separate procedures will be followed under the College's Judicial Process. The Complainant can notify the Title IX Coordinator in writing at any point in the process of the desire to withdraw the formal complaint or allegations.

The College reserves the right to dismiss formal complaints when the respondent is no longer enrolled or employed by the College or if specific circumstances prevent the College from gathering sufficient evidence to reach a determination.

When a complaint is dismissed, the Title IX Coordinator will send a written notice of dismissal to both Complainant and Respondent (hereinafter also known as the “Parties”) stating the reasons for the dismissal.

Regardless of which policy is used (e.g. this Policy, the Non-Discrimination Policy or Student Conduct) and regardless of whether a complaint is dismissed, students and employees reporting sexual misconduct will be offered supportive measures as set forth immediately below.

### **C. Support Assistance for Complainants and Respondents**

Upon receipt of a complaint, the Title IX Coordinator will provide written notification to the Complainant about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and any other services available to the complainant, available through the College as well as community resources as set forth in Appendix B. These supportive measures will be offered even if the complainant chooses not to file a formal complaint, in the following manner:

- When the Title IX Coordinator receives a complaint of sexual harassment or sexual violence from a student, they will work with the Vice President of Student Affairs to identify a trained staff member to assist the complainant with support services.
- When the Title IX Coordinator receives a complaint of sexual harassment and sexual violence from an employee, the Title IX Coordinator will work with the Office of Human Resources to assist the complainant with support services.
- When the Title IX Coordinator receives a complaint of sexual harassment and sexual violence from Other Community Members, the Title IX Coordinator will provide the complaining individual with a list of local resources and support services.
- The Title IX Coordinator will also provide written notification to the respondent with information regarding where and how to obtain supportive services both on and off-campus.

### **D. Amnesty for Alcohol and/or Drug Use**

The health and safety of every student at Mercy College is of the utmost importance. Mercy recognizes that students who have been drinking and/or using drugs at the time that sexual harassment or sexual violence occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Mercy College strongly encourages students to report incidents of sexual harassment or sexual violence. Therefore, a complainant or bystander acting in good faith who reports any incident of sexual harassment or sexual violence to Mercy College or law enforcement authorities will not be subject to the College’s Code of Conduct for violations of Mercy’s Drug and Alcohol Use Policy occurring at or near the time of the commission of the sexual harassment or sexual violence.

### **E. Reporting Retaliation**

Any individual who believes they have been retaliated against for making a report under this Policy, assisting someone making a report, or participating in any manner in an investigation, hearing or resolution of a sexual harassment or sexual violence complaint may file a complaint with the Title IX Coordinator. All retaliation complaints will be investigated in accordance with the investigation procedures set forth in this policy, and individuals who are found to have engaged in retaliation will be subject to disciplinary action.

#### **F. Malicious Allegations**

Members of the Mercy College community who make false and malicious complaints of sexual harassment or sexual violence, as opposed to complaints which, even if erroneous, are made in good-faith, may be subject to disciplinary action under this and other policies at the College. Finding a person in violation of College policy for making a materially false statement in bad faith in the course of an investigation does not constitute retaliation on the part of the College. A determination regarding responsibility, in and of itself, is not sufficient to conclude that any party made a bad faith materially false statement.

#### **G. Employees Required to Report Incidents of Sexual Harassment and Sexual Violence**

##### **1. Responsible Employees**

The College has designated certain employees as “Responsible Employees” who have a duty to report incidents of sexual harassment and sexual violence, including all details of which they become aware, immediately to the Title IX Coordinator. Such employees are not permitted under any circumstances to maintain a complainant’s confidentiality, except that the Title IX Coordinator may honor a request for confidentiality under the circumstances described in Section V below. These employees will, however, maintain a Complainant’s privacy to the greatest extent possible, and information reported to them will be shared only with the Title IX Coordinator, the Responsible Employee’s supervisor (if relevant), and other people responsible for handling the College’s response to the report on a need-to-know basis.

Before a complainant reveals any information to a Responsible Employee regarding an incident of sexual harassment and sexual violence, the employee shall advise the Complainant of the employee’s reporting obligations to notify the Title IX Coordinator, and if the Complainant wishes to maintain confidentiality and not disclose any information to the responsible employee, direct the Complainant to confidential resources at the Health and Wellness Center.

Mercy College has designated the following individuals as Responsible Employees:

- Campus Safety staff
- Residence Life Directors and Assistants
- Vice President and Assistant Vice Presidents of Student Affairs
- Director and Assistant Directors of Human Resources
- President

- Provost and Associate Provosts
- Staff Officers
- Deans and Associate Deans
- Athletic Director and Assistant Athletic Directors

## 2. Matters Involving Employees

For cases in which the Complainant and/or Respondent is an employee, **all management and supervisory personnel** have an affirmative duty to and are required to immediately report sexual harassment or sexual violence to the Title IX Coordinator. See Section XV below for definitions of management and supervisory personnel. For questions regarding supervisor or manager title or status, contact the Office of Human Resources.

## 3. Required Reporting

Even in cases where a Complainant requests confidentiality, the Responsible Employee and manager or supervisor nonetheless must report the incident to the Title IX Coordinator. See Section VII below regarding the College's obligations in handling requests for confidentiality.

Even when a Responsible Employee is made aware of a complaint, and notifies the Title IX Coordinator, in order for Mercy College to be put on official notice of a Title IX complaint, for cases involving students, a formal complaint must be submitted. A formal complaint is a signed document filed by a complainant alleging sexual misconduct against a Respondent and requesting that the school investigate the allegations of sexual harassment or sexual violence.

A formal complaint is not required for cases involving employees, and the College must take action upon learning of an alleged incident of sexual harassment or sexual violence.

## **H. Reporting and Other Actions by Bystanders**

While Responsible Employees are required reporters pursuant to this policy, Mercy College encourages all other employees, students and Other Community Members, to report incidents of sexual harassment or sexual violence that they observe or become aware of to the Title IX Coordinator or other campus official so that the College may take appropriate steps to eliminate the alleged discrimination and assist a complainant in obtaining the appropriate supportive measures they need. Bystanders who choose to exercise this positive moral obligation will be supported by the College and shall be protected from retaliation. The College also encourages bystanders who witness sexual harassment or sexual violence to take reasonable and prudent actions to prevent or stop the conduct. Actions may include direct intervention, calling law enforcement, or seeking assistance from a person in authority.

## **I. Coordination with Outside Law Enforcement Authorities**

In cases where the Complainant files a complaint with outside law enforcement authorities as well as with the College, the College shall determine what actions to take based on its

own investigation. The College may coordinate with outside law enforcement authorities in order to avoid interfering with their activities and, where possible, to obtain information regarding their investigation. The College may delay its investigation temporarily while law enforcement conducts its investigation; however, such delay shall not exceed ten (10) days unless the law enforcement agency specifically requests and justifies a longer delay.

Neither a law enforcement determination whether to prosecute a Respondent, nor the outcome of any criminal prosecution, is dispositive of whether the Respondent has committed a violation of this Policy.

## **VII. RIGHTS AND OBLIGATIONS RELATING TO CONFIDENTIALITY**

### **A. Confidential Resources**

#### **1. Students**

Students at the College who wish to speak to someone who will keep all of the communications strictly confidential regarding sexual harassment and sexual violence, should speak to a mental health counselor and/or nurse/nurse practitioner at the College's Health and Wellness Center. Mental health counselors and nurse/nurse practitioners will not report any information about an incident to College officials without the student's permission, except where there is an imminent threat to the complainant or any other person, or pursuant to legal reporting obligations, set forth in Section VII.C.2 below.

A Complainant who speaks solely to a mental health counselor and/or a nurse/nurse practitioner must understand that the College may be unable to investigate the particular incident or pursue disciplinary action against the Respondent. Even so, these health care professionals will assist the student in receiving other necessary support. A student who first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement authorities and thereafter have the incident fully investigated. However, delays in reporting, even slight, may hinder an investigation by the College or law enforcement authorities.

#### **2. Employees**

While there is no one directly employed by the College to whom employees can speak on a confidential basis regarding sexual harassment or sexual violence, free confidential support services are available through Mercy's Employee Assistance Program (EAP), which is listed on the Benefits Focus website. In addition, confidential community counseling resources are available throughout Westchester County and New York City. See Appendix B.

### **B. Handling Confidentiality Requests After Report Has Been Received by the College**

After a report of an alleged incident of sexual harassment or sexual violence has been received by the Title IX Coordinator, a Complainant may request that the matter be investigated without their identity or any details regarding the incident be divulged at the preliminary review stage, or that no investigation into a particular incident be conducted or

that an incident not be reported to outside law enforcement authorities. In all such cases, the Title IX Coordinator will weigh the complainant's request against the College's obligation to provide a safe, non-discriminatory environment for all College community members, including the Complainant.

Factors used to determine whether to honor such a request include, but are not limited to:

1. Whether the Respondent has a history of violent behavior or is a repeat offender;
2. Whether the incident represents escalation in unlawful conduct on behalf of the Respondent from previously noted behavior;
3. The increased risk that the Respondent will commit additional acts of violence;
4. Whether the Respondent used a weapon of force;
5. Whether the Complainant is a minor; and
6. Whether the College possesses other means to obtain evidence such as video surveillance, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

In circumstances where the College decides to proceed with a full investigation (with the Complainant's formal complaint filed or in the rare case where the Complainant does not wish to proceed but the College feels that there is a danger posed to the Complainant or the College community), the College is required under Title IX to divulge the Complainant's identity to the Respondent so that they may respond to the matter in their defense.

### **C. Other Reporting Obligations Under Federal and State Law**

Regardless of a request for confidentiality, the College is required to abide by laws mandating disclosures in the following circumstances:

1. Annual Crime Statistics. The College must report certain crimes occurring in specific geographic locations that shall be included in the College's annual security report pursuant to the Clery Act, **though it is anonymous**, and does not identify either the specifics of the crime or the identity of the Complainant.

2. Timely Warnings. The College is also required to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. The Complainant will not be identified in the timely warning.

3. NYS Campus Safety Act. The College must notify the appropriate law enforcement agency as soon as practicable but in no case more than twenty-four hours after report of a violent felony or student who resides in housing owned or operated by such institution is missing; provided that such reporting requirement shall take into consideration applicable federal law, including, but not limited to, the federal Campus Sexual Assault Victims' Bill of Rights under Title 20 U.S. Code Section 1092(f) which gives the victim of a sexual offense the right on whether or not to report such offense to local law enforcement agencies.

4. Notice to Parents. While the Family Educational Rights and Privacy Act (FERPA) allows the College to share information with parents when there is a health and safety emergency or when the student is a dependent on either parent's prior year federal income tax return, under New York State law the College is not permitted to share information about a report of domestic violence and dating violence, stalking or sexual assault with parents without the permission of the complainant.

5. Suspected Child Abuse. Certain members of the Mercy College community who interact with, supervise, chaperone, or otherwise oversee minors in programs or activities at Mercy or sponsored by Mercy (such as those in a clinical setting) are required to report immediately to the New York State Maltreatment Hotline at 1-800-342-3720 if they have reasonable cause to suspect abuse or maltreatment of individuals under the age of 18. If anyone other than New York State mandated reporters has reasonable cause to believe that a minor is being or has been abused or maltreated on campus, they should notify either the Title IX Coordinator or the College Campus Safety Department. If anyone observes child abuse while it is happening, they shall immediately call 911.

### **VIII. INTERIM SUPPORTIVE MEASURES AND ACCOMMODATIONS**

The College will take immediate steps to support the individuals in the educational and employment setting, as well as the campus community at large, including taking interim protective measures and provide accommodations, as appropriate, during an investigation. Such measures are available even if a Complainant decides not to officially report or otherwise proceed with an investigation. These measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual misconduct. The Complainant will be informed in writing of the availability of such interim protective measures and accommodations. The Respondent will also be offered supportive measures and accommodations as appropriate.

The College can issue a no-contact order between the Complainant and the Respondent. Continued intentional contact on the part of either party would be a violation of this Policy subject to additional conduct charges. A no-contact order does not guarantee that either party will have limited access to the campus or other educational services and programs.

The College will, upon request, assist a Complainant with obtaining an order of protection or equivalent protective or restraining order through law enforcement authorities; provide a copy of any order the College may receive to both the Complainant and the Respondent; have a knowledgeable individual on campus explain the order and answer any questions about it, including information from the order about the Respondent's responsibility to stay away from the protected person or persons; provide an explanation of the consequences for violating these orders, including but not limited to arrest, additional disciplinary charges, and interim suspension; and receiving assistance from the College Office of Campus Safety in contacting local law enforcement to effect an arrest for violating such order.

Other supportive and interim measures include making necessary changes to academic programs, including a change in class schedule; making appropriate accommodations to permit the complainant to take an incomplete or drop a course or courses without penalty;

permitting either party the opportunity to attend a class remotely; providing an academic tutor; extending deadlines for assignments; providing academic support services when academic progress is impacted by the alleged incident; making changes to residential housing situations; changing an employee's work assignment or schedule; providing an escort to and from class or campus buildings; offering counseling services through the Health and Wellness Center or a referral to an off-campus agency; and providing assistance with filing a criminal complaint.

Protective measures will remain in place and supportive services will be provided for as long as necessary during and after any investigation, though protective measures may be adjusted based on the findings after an investigation. Both the Respondent and the Complainant shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measures and accommodations, and shall be allowed to submit evidence in support of their request. The request for such a review shall be made to the Title IX Coordinator, who will make a determination whether to modify interim measures.

## **IX. INVESTIGATING COMPLAINTS OF SEXUAL MISCONDUCT**

### **A. The Investigation**

Upon receipt of a signed complaint form requesting an investigation from students, or upon receipt of an allegation relating to an employee as a complainant, Mercy College will investigate and adjudicate formal complaints of sexual misconduct using a grievance process that incorporates due process principles, treats all Parties fairly, and reaches reliable responsibility determinations.

The Title IX Coordinator will determine if the allegations meet the Federal Title IX criteria for an investigation, or state and local law criteria, under this Policy. If the allegations **do not** meet any of these criteria, the Title IX Coordinator will provide a rationale in writing to the Complainant and Respondent simultaneously either (1) dismissing the matter and not referring it for further action or (2) referring the matter to the appropriate authority on campus to determine if the complaint can be adjudicated under a different College policy such as the Student Code of Conduct, Faculty Handbook, Employee Handbook and/or Collective Bargaining Agreement.

If the Title IX Coordinator determines that an investigation is warranted under this Policy, the Title IX Coordinator will ensure that:

1. The investigation is conducted in a timely, thorough, and impartial manner that provides the Complainant and the Respondent a meaningful opportunity to be heard;
2. That the Parties are informed that they may inspect and review evidence;
3. The College conducts an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence;
4. That the Parties are notified in writing as to the alleged prohibited conduct committed; the approximate date, time and location of occurrence; the factual allegations concerning the alleged violation; and the possible sanctions;

5. A statement is provided to the Parties that the Respondent is presumed not responsible of the alleged misconduct until the conclusion of the grievance process;
6. Both Parties are notified in writing as to the time, date, and purpose of any investigative interviews, meetings, and hearings;
7. Both Parties Are advised that they may have an advisor of their choice, who may be an attorney; and
8. The Parties are informed that the College's Code of Conduct prohibits making false statements or knowingly submitted false information during the grievance process.

The Title IX Coordinator will coordinate investigative efforts with other College offices and may designate another trained individual to conduct all or part of the investigation. The investigation shall be conducted by an individual who has received training in conducting investigations of sexual violence, the effects of trauma, impartiality, and the rights of the Respondent, including the right to a presumption that the Respondent is "not responsible" until a finding of responsibility is made.

While the Title IX Coordinator will facilitate the overall investigation, and can also serve as an investigator, a separate College employee(s) will serve as facilitator for the hearing, as well as the decision maker(s). The decision maker(s) will be selected by the College who is/are not the Title IX Coordinator or an investigator and is/are free from any bias or conflict of interest. The decision maker(s) will participate in the hearing and afterwards, determine if the Respondent is responsible for any of the allegations.

Each party has the opportunity to offer evidence during the course of the investigation. Once evidence is collected, the Title IX Coordinator will send both Parties, and their advisors, evidence directly related to the allegations, in electronic format, with each party having ten (10) calendar days for both Parties to inspect, review, and respond to the evidence prior to the hearing.

After the evidence review process, an investigative report will be sent to both Parties, and their advisors, that summarizes relevant evidence, in electronic format, with each party having 10 (ten) calendar days for both Parties to respond.

### **B. Informal Resolution**

The College, in its discretion, may offer an informal resolution after a formal complaint of sexual misconduct is received, provided both Parties give voluntary, informed, written consent to attempt informal resolution. Informal resolution may include mediation or restorative justice and be facilitated by an employee trained in informal resolution. The College will in no way require either party to agree to or participate in an informal resolution. At any time prior to the completion of the informal resolution, with both Parties agreeing to the resolution outcome, any party has the right to withdraw from the informal resolution process and resume the grievance process in respect to the formal complaint. The College will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

### **C. Hearings**

In the event that there is no resolution of the matter, the Respondent is entitled to a hearing to determine responsibility. All hearings are required by federal law to be held live and in real-time, either in-person or through video conferencing, with both Parties having the right to cross examination. The Parties may be in the same room during the hearing or at the request of either party, be in separate rooms. The College reserves the right to have the Parties in separate rooms. When in separate rooms, technology will be used to allow both Parties to see and hear the hearing in real time. In keeping with federal law, the hearing will be recorded.

The hearing facilitator or decision maker(s) is/are responsible for ensuring the hearing is conducted in a civil and professional manner, and reserve the right to take actions necessary to maintain decorum and ensure adherence to Policy. Both Parties have the right to request breaks during the hearing.

#### 1. Advisors

Both Parties are allowed an advisor of their choice who can be an attorney to be present during the hearing. Either party may request an advisor through the College at no charge to conduct cross-examination at the hearing. Any advisor provided by the College will be trained to serve as an advisor, including having knowledge about questions and relevancy.

Each Party's advisor may ask the other party and any witnesses relevant questions and follow-up questions, including questions challenging credibility. This cross examination must be conducted directly, orally, and in real time **by the advisor only**. Badgering on the part of the advisor, including asking the same question repeatedly, will not be allowed.

#### 2. Cross Examination and Impact Statement

Only relevant cross-examination questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Cross-examination questions must be presented to the decision maker(s) prior to the hearing to determine relevancy.

If a party or witness does not submit to cross examination at the live hearing, the decision-maker(s) cannot rely on any statement of that party or witness in reaching a determination regarding responsibility. The decision maker(s), however, cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or a refusal to answer cross-examination or other questions.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the complainant or if the question and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Neither the Complainant's or the Respondent's physical or mental health diagnosis or treatment will be admitted in the hearing or the stage of the process that determines responsibility, unless prior written approval from the respective party is obtained.

Past findings of domestic violence, dating violence, stalking, sexual assault, or other forms of sexual misconduct may be admissible in the stage of the process where sanctions are determined.

The Complainant is permitted to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

**Note that this hearing process is required by federal regulations under Title IX and as such, preempts all other College policies and procedures, including under relevant Policies, Procedures, Collective Bargaining Agreements, and Faculty and Human Resources Handbooks.**

#### **D. Conflicts**

If any administrator designated by this Policy to participate in the investigation or resolution of a complaint, including but not limited to the Title IX Coordinator, is the Respondent, or there exists a conflict for any other reason such as knowledge of the Complainant and/or the Respondent, the President will appoint another College administrator to perform such person's duties under this Policy. If the President is the Respondent, the investigation will be handled by the College's General Counsel or designee.

#### **E. Admission and Acceptance of Penalty Prior to Finding**

At any time prior to a finding of misconduct, the Respondent may admit to the charges and accept the penalty that the decision maker determines to be appropriate to address the misconduct. If the Respondent is a student, this agreed upon penalty, if applicable, shall be placed on the respondent's transcript consistent with Section XI.A.4 below. Before resolving a complaint in this manner, the decision maker must first consult with the Complainant and provide the Complainant an opportunity to object to the proposed resolution in writing. If a resolution is reached over the Complainant's objection, the decision maker or designee shall provide the Complainant with a written statement of reasons supporting such resolution, and the complainant may appeal the decision to enter into the resolution to the Sexual Misconduct Appeals Panel.

#### **F. Timing**

The College will make every reasonable effort to ensure that the investigation and resolution of a complaint is carried out as timely and efficiently as possible. A good-faith effort will be made to complete the investigation, hearing, resolution and appeal within sixty (60) calendar days from the receipt of the formal complaint. If the process will take longer than sixty (60) days, the Title IX Coordinator will notify both Parties in writing and continue to keep them aware of the timeline and any further delays. If the College needs to temporarily delay the fact-finding portion of the investigation due to the evidence-

gathering phase of a law enforcement investigation, both Parties will be informed in writing.

### **G. Report of Findings and Standard of Evidence**

Upon completion of the hearing, the decision maker(s) will make a determination of responsibility using the preponderance of the evidence standard. Under preponderance of the evidence standard, the Decision Maker(s) determines whether there is a greater than 50% chance that the allegations are true.

The decision maker(s) will issue a written determination regarding responsibility, sent both to the Complainant and the Respondent, simultaneously, as follows:

- A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held findings of fact, and conclusions about whether the alleged conduct occurred;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies designed to restore or preserve equal access to the recipient's education program or activity; and
- The College's procedures and permissible bases for the Complainant and Respondent to appeal.

The Title IX Coordinator shall apprise the President of the College of the findings of any investigation, as well as any recommended sanctions to be imposed. Following the completion of the investigation, the Title IX Coordinator or designee will report the findings to the Vice President of Student Affairs if the Respondent is a student, the Provost if the Respondent is a faculty member, and to the Director of Human Resources if the Respondent is an employee (other than a faculty member).

If there is a finding after the hearing (of **responsibility** or **no responsibility**), the College is precluded from bringing additional disciplinary action against the Respondent under another College policy or procedure.

### **X. APPEALS PROCESS**

Both Parties have the right to an appeal from a determination regarding responsibility, any sanctions, and/or the College's dismissal of a formal complaint or any allegations therein, on one or more of the following grounds: a procedural irregularity that affected the outcome of the matter; newly discovered evidence that could affect the outcome of the matter; and/or there was a conflict of interest or bias on the part of College personnel that affected the outcome of the matter.

An appeal must be filed in writing to the attention of the Title IX Coordinator no later than ten (10) calendar days from the date the written determination is sent to both Parties. The Title IX Coordinator will forward any appeals to the Sexual Misconduct Appeals Panel for a fair and impartial review by individuals without a conflict of interest. Members of this three-person appeal panel are specially trained in hearing Title IX cases, including the effects of trauma on parties, impartiality, the rights of both parties, the College's policies and procedures, and other issues including but not limited to domestic violence, dating violence, stalking and sexual assault.

The Title IX Coordinator will inform the other party in writing when an appeal is received. The panel will meet and reach a decision within thirty (30) calendar days from receipt of the appeal, if not sooner, and any delays will be communicated to both parties. The Title IX Coordinator will notify both Parties in writing of the panel's decision.

There are no further appeals available at the College.

## **XI. DISCIPLINARY ACTION**

After making a finding of responsibility, the decision maker(s) will consult with the appropriate College official(s) (i.e. the Vice President of Student Affairs, the Provost or the Director of Human Resources) as to sanctions in accordance with the applicable policy, procedure, handbook, Collective Bargaining Agreement or written contract. When it is determined that, by a preponderance of the evidence, a violation of this Policy has occurred, such action shall be authorized as deemed necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. The Title IX Coordinator shall apprise the President of the College of the findings of any investigation, as well as the recommended sanction(s) to be imposed.

### **A. Rights**

In cases where it is recommended that discipline be imposed, the Respondent and Complainant shall be entitled to (1) choose whether to disclose or discuss the outcome of the conduct process; and (2) have all information obtained during the course of the conduct process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

### **B. Penalties**

The range of penalties against individuals found to have committed a violation of this Policy include but are not limited to the following:

- **Students:** probation, removal from housing, removal from a sports team or other school activity, suspension or expulsion following the relevant disciplinary procedures.
- **Employees** (including faculty): reprimand, suspension (paid or unpaid) or termination of employment following the relevant disciplinary procedures, if applicable.
- **Other Community Members, including contractors:** in cases where the person alleged to have committed sexual harassment or sexual violence on

Mercy campuses is neither a Mercy student nor a Mercy employee, the College will take appropriate action, such as restricting her/his access to campus. In addition, the matter will be referred to local law enforcement authorities in appropriate circumstances and consistent with this policy.

### **C. Interim Suspensions**

When the Respondent is a student or employee who presents a continuing threat to the health and safety of the community, the College will take immediate steps to protect the Complainant in the educational and employment setting, including taking interim protective measures and by providing accommodations, as appropriate, during an investigation. The Complainant will be informed by the Title IX Coordinator in writing of such interim protective measures and accommodations, which may include, among other things:

- Making necessary changes to academic programs;
- Making necessary changes to residential housing situations;
- Changing an employee's work assignment or schedule; and/or
- Offering counseling services to the complainant and the respondent, through the Health and Wellness Center or a referral to an off-campus agency.

In circumstances where an interim suspension is imposed, it shall be in accordance with applicable Mercy College Student, Faculty and Employee handbooks, Collective Bargaining Agreements, written contracts, policies or procedures to the extent practicable. Both the Respondent and the Complainant shall, upon request, be afforded a prompt review by the Vice President of Student Affairs (for students), the Provost (for faculty) or the Director of Human Resources (for employees, excluding faculty), to determine whether the interim suspension is reasonable under the circumstances. The individual requesting review shall be allowed to submit evidence in support of their request of why there should be a modification of the interim suspension. The decision of the appropriate official noted above is final.

### **D. Notations on Transcripts**

In cases in which a Respondent has been found responsible for committing a Clery Act reportable crime of violence, the College shall make a notation on their transcript stating that they was "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the Respondent who withdraws from the College while such conduct charges are pending, and declines to complete the disciplinary process, the College shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." Notations for expulsion and withdrawal with conduct charges pending will not be removed from a student's transcript. Notations for suspension shall not be removed prior to one year after conclusion of the penalty. If a finding of responsibility is vacated for any reason, such as after an appeal to the Sexual Misconduct Appeals Panel, any such transcript notation shall be removed.

## **E. FERPA**

Nothing in this Policy, including notice regarding the results of the disciplinary process, violates the Family Educational Rights and Privacy Act (FERPA), including any initial, interim and final decision and the rationale by a College official entitled to resolve student disciplinary matters.

## **XII. CONSENSUAL RELATIONSHIPS**

Sexual harassment may be at issue even in relationships that begin as consensual ones. In particular, such relationships can be problematic when one person in the relationship is, or could be perceived to be, in a position of institutional authority relative to the other person. In order to avoid that possibility, it is the policy of the College that any relationship in which one person has, or reasonably could be perceived to have, institutional authority over another member of the College community must be disclosed as follows, so that the matter may be addressed as appropriate under the circumstances:

- Any faculty member who is or becomes a party to a consensual relationship with a student—regardless of whether the student is in the faculty member’s class—must disclose that relationship to the Associate Provost or their school dean.
- Any non-faculty College employee who is or become a party to a consensual relationship with any student must disclose that relationship to the Office of Human Resources.
- Any employee (faculty member or otherwise) who is in a relationship with another employee with someone for whom they supervise, must disclose the relationship to the Office of Human Resources.

## **XIII. FILING EXTERNAL COMPLAINTS**

Complainants have the right at any time to file complaints with the Office for Civil Rights (OCR) of the U.S. Department of Education, alleging violations of Title IX, and to file complaints with other appropriate agencies alleging violations of other federal, state or local laws, such as the Equal Employment Opportunity Commission (EEOC) (for employees), or the New York State, New York City or Westchester County Division of Human Rights. Contact information for OCR, the NYS Division of Human Rights, and other relevant agencies is set forth in Appendix B.

## **XIV. ADDITIONAL COLLEGE OBLIGATIONS UNDER THIS POLICY**

In addition to addressing possible violations of this Policy, Mercy College has the following obligations:

### **A. Dissemination of Policies, Procedures and Notices**

The Title IX Coordinator, in coordination with the Office of Student Affairs, Office of Campus Safety, the Office of Human Resources and other applicable offices, is responsible for the wide dissemination of the following: this Policy; Mercy College’s *Notice of Non-Discrimination*; the Title IX Coordinator’s name, phone number, office location, and email address; and contact information for the Office of Campus Safety.

Such dissemination shall include posting the documents and information on the College website and including it in any student or employee handbooks, and in resident life materials. In addition, the Mercy College Students' Bill of Rights, which is appended to and made a part of this Policy, must be distributed to any individual reporting an incident of sexual harassment or sexual violence at the time the report is made. It must also be distributed annually to all students. All of the above information shall be posted on the College's Title IX website in an easily accessible manner to the public, posted in campus residence halls and campus centers, and shall include links or information to file a report and seek a response.

### **B. Student Educational Programming**

The Title IX Coordinator, in coordination with the Office of Student Affairs, Office of Campus Safety, the Office of Human Resources and other applicable offices, is responsible for ensuring that the College engages in a comprehensive student orientation and ongoing education campaign, using multiple methods, to educate members of the College community about sexual misconduct, including domestic violence, dating violence, stalking and sexual assault. The programming shall: (1) be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs and informed by research or assessed for value, effectiveness, or outcome; and (2) consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

Some of the information to be imparted shall include, but not be limited to:

1. All of the information contained in this Policy, including:
  - a. prohibited conduct, resources offered while the College takes administrative and/or conduct action against an accused;
  - b. that College policies apply equally to all students regardless of sexual orientation, gender identity or gender expression;
  - c. the role of relevant College officials relating to this Policy; and the consequences and sanctions for individuals who commit these crimes and code of conduct violations;
2. Awareness of violence, its impact on victims and survivors and their friends and family, and its long-term impact, without identifying victims in any way;
- F. Bystander intervention and the importance of taking action to prevent violence when one can safely do so; and
- G. Risk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of College officials who can answer general or specific questions about risk reduction.

The College shall provide such educational programming:

1. To all new students, whether first-year, or transfer, undergraduate, graduate or professional;
  2. To each student leader and officer of student organizations recognized by the College,  
as well as those seeking recognition by the College, prior to receiving recognition or registration;
  3. To student-athletes prior to participating in intercollegiate athletic competition;
- and
4. To all students residing in College-sponsored housing prior to entering housing for the  
school year.

The College shall also offer educational programming to all other students not subject to required training, including international students, students that are also employees, students in student organizations, and distance learning students.

### **C. Faculty and Staff Training**

The Title IX Coordinator, in coordination with the Office of Campus Safety, the Office of Human Resources and other applicable offices, is responsible for ensuring that all new employees and current employees, including but not limited to faculty, staff, administrators, security officers, athletic staff and residence life staff receive annual training regarding all aspects of this policy and on sexual misconduct (including domestic violence, dating violence, stalking and sexual assault).

### **D. Conducting Campus Climate Assessments and Annual Reporting**

The College shall conduct, no less than every other year or as otherwise required by law, a campus climate assessment to ascertain general awareness and knowledge of the provisions of this Policy, including student experience with and knowledge of reporting and college adjudicatory processes, which shall be developed using standard and commonly recognized research methods. The assessment shall be structured to comply with applicable law, including Section 129-B of the New York State Education Law. The College shall publish the results of the surveys on its Title IX web page. The published results shall not contain any information which would enable a reader to identify any individual who responded to the climate assessment.

The College is required to report to the State of New York aggregate data relating to domestic violence, dating violence, stalking and sexual assault, in accordance with state and any applicable law.

## **XV. DEFINITIONS OF TERMS IN THIS POLICY**

**A. Affirmative Consent** is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation,

gender identity or gender expression. Consent may be initially given but withdrawn at any time. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

In order to give consent, one must be of legal age (17 years or older). Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by lack of consciousness or being asleep, being involuntarily restrained, or if the individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

**B. Complainant** refers to the individual who alleges that they have been the subject of sexual harassment or sexual violence, and can be a Mercy student, employee (including all full-time and part-time faculty and staff), or other Community Member, including but not limited to applicants for admission, applicants for employment, or contractors.

**C. Complaint** is an allegation of sexual harassment or sexual violence made under this policy. Under federal Title IX, students are required to file a formal complaint for an investigation or other action to commence. Employees are not required to file a formal complaint under State law. Under this Policy, a complaint may be brought to the College's attention by someone other than the Complainant.

**D. Contractors** are protected from prohibited discrimination under New York State law, and they include: subcontractors, vendors, consultants or other persons providing services pursuant to a contract in the workplace with the College or who are employees of such a contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace with the College.

**E. Dating violence** means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

**F. Domestic Violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

**G. Forcible Touching/Fondling** is intentionally touching the sexual or other intimate parts of another person without the latter's consent for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.

**H. Managers and Supervisors** are employees who either (1) have the authority to make tangible employment decisions with regard to other employees, including the authority to hire, fire, promote, compensate or assign significantly different responsibilities; or (2) have the authority to make recommendations on tangible

employment decisions that are given particular weight. Managers and supervisors include but are not limited to: vice presidents, directors, deans, associate deans and academic unit heads.

**I. Rape and Attempted Rape** is the penetration or attempted penetration, no matter how slight, of any body part by a sex organ of another person, without the consent of that person.

**J. Reporting Individual** is any person who reports sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination).

**K. Respondent** refers to the individual who is alleged to have committed sexual harassment or sexual violence against a Mercy College student or employee, or Other Community Member.

**L. Retaliation** is adverse treatment of an individual as a result of that individual's reporting sexual harassment or sexual violence, assisting someone with a report of sexual harassment or sexual violence, or testifying or participating or refusing to participate in any manner in an investigation, proceeding, hearing or resolution of a sexual harassment or sexual violence complaint. Adverse treatment includes threats, intimidation, coercion, discrimination or other reprisals by either a complainant or respondent or by others such as friends or relatives of either a complainant or respondent.

**M. Sexual Activity** is penetration, however slight, of the vulva or the anus by the penis, hand/fingers or other object; contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person; or intentional touching, either directly or through the clothing of any other body part, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

**N. Sexual Assault** is any form of sexual activity that occurs without consent.

**O. Sexual Harassment** under Title IX is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic and electronic communications or physical conduct of a sexual nature when: submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or such conduct is sufficiently severe and pervasive to adversely affect an individual's participation in employment, education or other Mercy College activities (hostile environment). The effect will be evaluated based on the perspective of a reasonable person in the position of a complainant. Conduct is considered "unwelcome" if the individual did not request or invite it and considered the conduct to be undesirable or offensive.

For employees, under New York State Law, harassment is against the law whenever an individual is subjected to inferior terms, conditions or privileges of employment. The

harassment need not be severe or pervasive in order for the College to be liable, although the actions are defensible if they are not more than “petty slights or trivial inconveniences.”

While it is not possible to list all circumstances that might constitute sexual harassment, the following are some examples of conduct that might constitute sexual harassment depending on the totality of the circumstances:

- Unnecessary, inappropriate or unwelcome physical contact, such as touching, groping, patting, pinching, hugging, kissing, or brushing against an individual’s body;
- Verbal abuse, harassing or offensive comments of a sexual nature, including sexual comments, slurs, persistent or pervasive sexually explicit statements, questions, jokes or anecdotes, degrading words regarding sexuality or gender, suggestive or obscene letters, notes, or invitations;
- Visual displays or distribution of lewd or sexually explicit photographs, drawings, pictures, or written materials; or undue and unwanted attention, such as repeated inappropriate flirting, staring, or making sexually suggestive gestures;
- Requests for sexual favors, which may be accompanied by implied or overt threats concerning one’s job performance evaluation or promotion;
- Subtle or obvious pressure for unwelcome sexual activities;
- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute unlawful sexual harassment when:
  - Submission to such conduct is made (either explicitly or implicitly) a term or condition of employment;
  - Submission to, or rejection, of such conduct is used as a basis for decisions affecting one’s employment; or
  - Such conduct has the purpose or effect of interfering with an individual’s work.

For purposes of this Policy, sexual harassment also includes acts that violate an individual’s **right to privacy** in connection with her/his body and/or sexual activity such as:

- Recording images (e.g. video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness without that person’s consent;
- Disseminating images (e.g. video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to disclosure; or
- Viewing another person’s sexual activity, intimate body parts, or naked dressing in a place where that person would have a reasonable expectation of privacy, without that person’s consent.

**P. Sexual Misconduct** for the purposes of this Policy means sexual harassment or sexual violence, as defined herein.

**Q. Sexual Violence** is an umbrella term that includes: (1) sexual activity without affirmative consent, such as sexual assault, rape/attempted rape, and forcible touching/fondling; (2) dating and domestic violence; and (3) stalking as defined below.

**R. Stalking** means a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

## APPENDIX A

### **Mercy College Student Bill of Rights**

When reporting or responding to sexual misconduct, sexual violence, and/or relationship violence, all **Mercy College** students have the right to:

- Make a report to local law enforcement and/or State Police;
- Have disclosures of domestic violence, dating violence, stalking and sexual assault treated seriously;
- Make a decision about whether to disclose a crime or violation and participate in the disciplinary process and/or criminal justice process free from pressure by the College;
- Participate in a College disciplinary process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the College courteous, fair, and respectful health care and counseling services, where available;
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- Describe the incident to as few College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the College, any student the accused and/or respondent, and/or their friends, family and acquaintances within the jurisdiction of the College;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, respondent throughout the disciplinary process, including during all meetings and hearings related to such process; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice or disciplinary process of the College.

For additional information and a copy of the *Mercy College Policy and Procedures Relating to Sexual Misconduct* contact: Thomas McDonald, Title IX Coordinator/Equity Compliance Specialist, [tmcdonald7@mercy.edu](mailto:tmcdonald7@mercy.edu), Office: 914.674.7679, Cell: 914.839.0131, or visit: [www.mercy.edu/about-mercy/title-ix](http://www.mercy.edu/about-mercy/title-ix).

## **APPENDIX B**

### **MERCY COLLEGE TITLE IX RESOURCE LIST**

#### **EMERGENCY NUMBERS**

- Campus Emergency Number (914) 674-9999 or x9999
- Police, Fire, or Medical Emergency Number 911

#### **CAMPUS SAFETY NON-EMERGENCY NUMBERS**

- Dobbs Ferry Campus: (914) 674-7225
- Bronx Campus: (718) 678-8983
- Manhattan Campus: (212) 615-3319
- Yorktown Campus: (914) 455-2174

#### **CAMPUS SAFETY MAIN LOCATION**

- Department of Campus Safety, Main Hall, Room 234, Dobbs Ferry Campus, Monday to Friday, 9:00 am to 5:00 pm
- Command Center, Founders Hall, staffed 24-hours a day, 7-days a week

#### **TITLE IX COORDINATOR**

- Thomas McDonald (914) 674-7679  
Verrazano Hall, Room 106  
Dobbs Ferry Campus  
[tmcdonald7@mercy.edu](mailto:tmcdonald7@mercy.edu) or [titleix.equity@mercy.edu](mailto:titleix.equity@mercy.edu)

#### **ON-CAMPUS CONFIDENTIAL RESOURCES**

##### **Mercy College Health and Wellness Office**

- Dobbs Ferry Campus, Main Hall 123
- Bronx Campus, Room 2125
- Manhattan Campus, Room 341
- Ori Shinar, Psy.D., Director of Mental Health Counseling (914) 674-7233
- Colleen Powers, Director of Health & Wellness/Nurse Practitioner (914) 674-7707

#### **SEXUAL ASSAULT FORENSIC EXAMINER (SAFE) HOSPITALS**

##### **Westchester County**

- Westchester Medical Center, 100 Woods Road, Valhalla, NY 10595, (914) 493-7018
- Mid-Hudson Valley, Westchester Medical Center, 241 North Road, Poughkeepsie, NY 12601, (845) 483-5000

#### **The Bronx**

- Jacobi Medical Center, 1400 Pelham Parkway, (718) 918-5000
- Lincoln Medical & Mental Health Center, 234 East 149th Street, (718) 579-5700
- North Central Bronx Hospital, 3424 Kossuth Avenue & 210th Street, (718) 519-3500

#### **Manhattan**

- Bellevue Hospital Center, 462 First Avenue, (212) 562-4132
- Harlem Hospital Center, 506 Lenox Avenue, (212) 939-1000
- Lenox Health Greenwich Village, 30 Seventh Avenue, (516) 465-8018
- Metropolitan Hospital Center, 1901 First Avenue, (212) 423-8993
- Mount Sinai Beth Israel, First Ave at 16th Street, (212) 420-2873
- Mount Sinai Hospital, One Gustave L. Levy Place, (212) 241-7005
- Mount Sinai Morningside, 1111 Amsterdam Avenue, (212) 523-4295
- New York-Presbyterian Hospital, Columbia Presbyterian Center, 622 West 168th Street, (212) 305-2500
- New York-Presbyterian Hospital, New York Weill Cornell Center, 525 East 68th Street, (212) 746-5454

#### **Queens**

- Elmhurst Hospital Center, 79-01 Broadway, (718) 334-4000
- Queens Hospital Center, 82-68 164th Street, (718) 883-2350

#### **Brooklyn**

- Coney Island Hospital, 2601 Ocean Parkway, (718) 616-3000
- Kings County Hospital Center, 451 Clarkson Avenue, (718) 245-3901
- Woodhull Medical & Mental Health Center, 760 Broadway, (718) 963-8101

#### **Staten Island**

- Richmond University Medical Center, 355 Bard Avenue, (718) 818-2413

### **COMMUNITY RESOURCES**

**The following community resources offer confidential resources for victims of sexual assault, domestic violence, and other forms of sexual violence.**

**Services include 24/7 hotlines; counseling; advocacy; legal assistance; shelter; medical care; HIV and STD screenings; and assistance working with local police, courts, and area hospitals.**

#### **WESTCHESTER**

- **WestCOP – Victim Assistance Services**  
Office: (914)345-3113

24/7 Hotline: (914) 345-311, Spanish available  
24/7 Toll Free Hotline: (855) 827-2255, Spanish available  
[www.westcop.org](http://www.westcop.org)

- **Hope's Door**  
Office: (914) 747-0818  
24/7 Hotline: (888) 438-8700, Spanish available  
[www.HopesDoorNY.org](http://www.HopesDoorNY.org)
- **My Sister's Place**  
24/7 Hotline: (800) 298-7233, Spanish available  
[www.mspny.org](http://www.mspny.org)
- **Putnam/Norther Westchester Women's Resource Center**  
4/7 Hotline: (845) 628-2166, Spanish available  
[www.pnwwrc.org](http://www.pnwwrc.org)
- **Westchester County Office for Women**  
Office: (914) 995-5972, English  
Office: (914) 995-2099, Spanish  
After Hours: (914) 995-2099  
Sexual Assault Hotline 24/7: (833) 220-2444

#### **NEW YORK CITY**

- **Bronx DA's Office – Crime Victim's Assistance Unit**  
198 East 161<sup>st</sup> St. – Room 558 (Bronx)  
Office: (718) 838-7309
- **Sexual Assault Treatment Program**  
North Central Bronx Hospital  
3424 Kossuth Avenue (Bronx)  
(718) 519-2121
- **Mount Sinai Victim Support Services**  
312 East 94<sup>th</sup> Street (Manhattan)  
Office: (212) 731-7546  
24/7 Hotline: (212) 423-2140, Spanish available
- **The DOVE Program (Domestic & Other Violence Emergencies)**  
New York Presbyterian  
622 West 168<sup>th</sup> Street (Manhattan)  
24/7 Hotline: (212) 305-9060, Spanish available
- **SAFE Center, Sexual Assault Response Team**

Bellevue Hospital Center  
462 First Avenue (Manhattan)  
(212) 562-3435

- **Rape Crisis & Violence Intervention**  
Beth Israel Medical Center  
317 East 17<sup>th</sup> Street (Manhattan)  
(212) 420-4516

#### **ADDITIONAL HOTLINES AND RESOURCES**

- **NYS Domestic Violence Hotlines**  
24/7 Hotline: (800) 942-6906, multiple languages  
24/7 Hotline: Deaf/Hard of Hearing (800) 799-7233 or 711
- **Safe Horizons Hotline**  
24/7 Hotline: (800) 621-HOPE (4673), Spanish available  
[www.safehorizon.org](http://www.safehorizon.org)
- **Rape, Abuse & Incest National Network (RAINN)**  
24/7 Hotline: (800) 656-HOPE (4673), Spanish available  
[www.rainn.org](http://www.rainn.org)
- **NYC Antiviolence Project – LGBTQ**  
24/7 Hotline: (212) 714-1141, Spanish available

#### **ADDITIONAL LEGAL ASSISTANCE**

- **Pace Law School Women’s Justice Center** (914) 287-0739
- **Legal Services of Hudson Valley** (877) 574-8529
- **My Sister’s Place Legal Center** (914) 948-8466
- **Westchester Hispanic Coalition** (914) 948-8466
- **Empire Justice Center** (914) 422-4329

**Note:** If any of the above resources do not meet a specific need, the Title IX Coordinator can help locate appropriate services.

#### **EXTERNAL AGENCIES TO FILE COMPLAINTS OF SEXUAL MISCONDUCT**

- **Office for Civil Rights (OCR)**  
US Department of Education  
Main Office: (800) 421-3481

Main Email: [OCR@ed.gov](mailto:OCR@ed.gov)

New York Office: (646) 428-3800

New York Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

New York Location: 32 Old Slip – 26<sup>th</sup> Floor, Manhattan

- **New York State Division of Human Rights**

One Fordham Plaza – 4<sup>th</sup> Floor, Bronx

Main Number, Toll Free: (888) 392-3644

TTD/TTY Number: (718) 741-8300

Email: [info@dhr.ny.gov](mailto:info@dhr.ny.gov)

- **New York City Commission on Human Rights**

Phone: Call 311 or (212) 416-0197 for locations and services

- **United States Equal Opportunity Employment Commission (EEOC)**

Main Number: (800) 669-4000

TTY Number: (800) 669-6820

New York office location: 33 Whitehall Street – 5<sup>th</sup> floor, Manhattan

## **CAMPUS CRIME STATISTICS: DEFINITIONS**

In accordance with recent updates to the Clery Act, data included in this document is presented to enable the reader to review crime activity both on campus and on streets adjacent to College property. Reported on-campus offenses include those occurring on College property and in campus buildings. A specific breakdown of offenses occurring in College owned residence halls appears under the “Residence Halls” heading.

Two other categories presented in Campus Crime Statistics Chart are “non-campus buildings or property” and “public property.” With regard to the first category, there are no off-campus student organizations owning buildings or property. The second category, “public property” includes thoroughfares, streets, sidewalks and parking facilities immediately adjacent to the campuses.

Campus crime statistics also include arrests and disciplinary referrals made to campus authorities for alcohol, drugs and weapons possession. As defined by the Campus Safety Act, a disciplinary referral is an instance when a student is formally reported in writing to a College officer for possible sanction.

As required by the Clery Act, colleges are required to report hate crimes. A hate crime occurs when a person is victimized intentionally because of his or her actual or perceived race, gender, religion, sexual orientation, ethnicity, disability or marital status.

The crimes reported are based on complaints filed with the following offices: Office of the Vice President of Student Affairs, Office of the Provost, Office of the Vice President for Enrollment Services, Office of the Title IX Coordinator, Office of the Executive Director of Human Resources, Office of the Director of Athletics, Office of the Director of Residential Life, or Office of the Vice President of Enrollment Management.

Formal requests for crime statistics for areas defined as “public property” and “non-campus buildings and property” are made with the local police departments. These offenses are defined in the “Uniform Crime Report” and the “Crime Awareness and Campus Security Act.”

### **Definitions of Reportable Crimes**

#### **Criminal homicide**

- Murder and non-negligent manslaughter- The willful (non-negligent) killing of one human being by another.
- Negligent manslaughter- The killing of another person through gross negligence.

#### **Sex offenses**

- Forcible sex offenses- Any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will, where the victim is incapable of giving consent.

- Forcible rape- The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against that person's will, where the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity (or because of his or her youth).
- Forcible sodomy- Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will, where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.
- Sexual assault with and object- The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person forcibly and/or against that person's will; or not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.
- Forcible fondling- The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.
- Sex offenses, non-forcible- Unlawful, non-forcible sexual intercourse.
- Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape- Non-forcible sexual intercourse with a person who is under the statutory age of consent.

#### Other Crimes

1. Robbery- The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
2. Aggravated assault- An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by a means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used that could and probably would result in serious personal injury if the crime were successfully completed.)
3. Burglary- The unlawful entry of a structure to commit a felony or a theft. For reporting purposes, this definition includes: unlawful entry with intent to commit a larceny or a felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking, and all attempts to commit any of the aforementioned acts.
4. Motor vehicle theft- The theft or attempted theft of a motor vehicle. (Motor vehicle theft is classified as any case where an automobile is taken by a person not having lawful access, even though the vehicle is later abandoned, including joy riding.)
5. Arson- Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

6. Dating violence is violence by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
7. Domestic violence is a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
8. Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

#### Other Offenses

- Liquor law violations- The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned activities. (Drunkenness and driving under the influence are not included in this definition.)
- Drug abuse violations- Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).
- Weapon law violations- The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: the manufacture, sale, or possession of deadly weapons; the carrying of deadly weapons, concealed or openly; the furnishing of deadly weapons, concealed or openly; the furnishing of deadly weapons, concealed or openly; the furnishing of deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned acts.

**Mercy College Department of  
Campus Safety  
(914) 674-7225**

MERCY COLLEGE CRIME STATISTICS DOBBS FERRY CAMPUS

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Criminal Homicide</b>					
<i>Murder and Non-negligent</i>	2018	0	0	0	0
	2019	0	0	0	0
<i>Manslaughter</i>	2020	0	0	0	0
<i>Negligent</i>	2018	0	0	0	0
<i>Manslaughter</i>	2019	0	0	0	0
	2020	0	0	0	0
<b>Sex Offenses</b>					
<i>Forcible Sex Offenses</i>	2018	0	0	0	0
	2019	3	3	0	0
	2020	0	0	0	0
<i>Non-forcible Sex Offenses</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Robbery	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	1
Aggravated Assault	2018	0	0	0	0
	2019	0	0	0	1
	2020	0	0	0	0
Burglary	2018	0	0	0	0
	2019	2	1	0	0
	2020	0	0	0	0
Motor Vehicle Theft	2018	0	0	0	0
	2019	0	0	0	1
	2020	0	0	0	0
Arson	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Stalking	2018	0	0	0	0
	2019	1	0	0	0
	2020	0	0	0	0
Domestic Violence	2018	1	0	0	0
	2019	0	0	0	3
	2020	0	0	0	0
Dating Violence	2018	0	0	1	0
	2019	0	0	0	2
	2020	0	0	0	0
Fondling	2018	1	1	0	0
	2019	1	1	0	0
	2020	0	0	0	0

Other Offenses		On Campus	Non-Arrest Campus Referrals		Public Property
			Residential Facility	Non-campus Building or Property	
Liquor Law Violations	2018	39	39	4	0
	2019	11	11	0	0
	2020	32	32	0	0
Drug Abuse Violations	2018	22	22	3	0
	2019	17	17	0	0
	2020	15	13	0	0
Illegal Weapons Possession	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Other Offenses		On Campus	Arrests		Public Property
			Residential Facility	Non-campus Building or Property	
Liquor Law Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Drug Abuse Violations	2018	0	0	0	0
	2019	0	0	0	3
	2020	0	0	0	0
Illegal Weapons Violations	2018	0	0	0	0
	2019	0	0	0	2
	2020	0	0	0	0

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Hate Crimes</b>					
<i>Simple Assault</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Larceny Theft</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Intimidation</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Vandalism</i>	2018	0	0	0	0

2019	0	0	0	0
2020	0	0	0	0

Crime information was requested from local Police Departments for all Mercy Campuses as well as Off-Campus buildings. Any statistics received are included above.

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This report includes statistics from the Dobbs Ferry Campus

Crimes reported in the Residence Hall column are included in the “on-campus” category.

There were no reported hate/bias crimes in 2018, 2019 as well as 2020.

**MERCY COLLEGE CRIME STATISTICS BRONX CAMPUS**

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Criminal Homicide</b>					
<i>Murder and Non-negligent</i>	2018	0	0	0	0
	2019	0	0	0	0
<i>Manslaughter</i>	2020	0	0	0	0
<i>Negligent</i>	2018	0	0	0	0
<i>Manslaughter</i>	2019	0	0	0	0
	2020	0	0	0	0
<b>Sex Offenses</b>					
<i>Forcible Sex Offenses</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Non-forcible Sex Offenses</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Robbery	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Aggravated Assault	2018	1	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Burglary	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Motor Vehicle Theft	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Arson	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Stalking	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Domestic Violence	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Dating Violence	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Fondling	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Other Offenses		On Campus	Non-Arrest Campus Referrals		Public Property
			Residential Facility	Non-campus Building or Property	
Liquor Law Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Drug Abuse Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Illegal Weapons Possession	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Other Offenses		On Campus	Arrests		Public Property
			Residential Facility	Non-campus Building or Property	
Liquor Law Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Drug Abuse Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Illegal Weapons Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Hate Crimes</b>					
<i>Simple Assault</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Larceny Theft</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Intimidation</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Vandalism</i>	2018	0	0	0	0

2019	0	0	0	0
2020	0	0	0	0

Crime information was requested from local Police Departments for all Mercy Campuses as well as Off-Campus buildings. Although not all departments responded, any statistics received are included above.

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This report includes statistics from the Bronx, Campus.

Crimes reported in the Residence Hall column are included in the “on-campus” category.

There were no reported hate/bias crimes in 2018, 2019 as well as 2020

**MERCY COLLEGE CRIME STATISTICS MANHATTAN CAMPUS**

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Criminal Homicide</b>					
<i>Murder and Non-negligent</i>	2018	0	0	0	0
	2019	0	0	0	0
<i>Manslaughter</i>	2020	0	0	0	0
<i>Negligent</i>	2018	0	0	0	0
<i>Manslaughter</i>	2019	0	0	0	0
	2020	0	0	0	0
<b>Sex Offenses</b>					
<i>Forcible Sex Offenses</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Non-forcible Sex Offenses</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Robbery	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Aggravated Assault	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Burglary	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Motor Vehicle Theft	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Arson	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Stalking	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Domestic Violence	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Dating Violence	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Fondling	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Other Offenses		On Campus	Non-Arrest Campus Referrals		
			Residential Facility	Non-campus Building or Property	Public Property
Liquor Law Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Drug Abuse Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Illegal Weapons Possession	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Other Offenses		Arrests			
		On Campus	Residential Facility	Non-campus Building or Property	Public Property
Liquor Law Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Drug Abuse Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Illegal Weapons Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Hate Crimes</b>					
<i>Simple Assault</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Larceny Theft</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Intimidation</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Vandalism</i>	2018	0	0	0	0

2019	0	0	0	0
2020	0	0	0	0

Crime information was requested from local Police Departments for all Mercy Campuses as well as Off-Campus buildings. Although not all departments responded, any statistics received are included above.

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This report includes statistics from the Manhattan Campus.

Crimes reported in the Residence Hall column are included in the “on-campus” category.

There were no reported hate/bias crimes in 2018, 2019 as well as 2020

MERCY COLLEGE CRIME STATISTICS YORKTOWN CAMPUS

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Criminal Homicide</b>					
<i>Murder and Non-negligent</i>	2018	0	0	0	0
	2019	0	0	0	0
<i>Manslaughter</i>	2020	0	0	0	0
<i>Negligent</i>	2018	0	0	0	0
<i>Manslaughter</i>	2019	0	0	0	0
	2020	0	0	0	0
<b>Sex Offenses</b>					
<i>Forcible Sex Offenses</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Non-forcible Sex Offenses</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Robbery	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Aggravated Assault	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Burglary	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Motor Vehicle Theft	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Arson	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Stalking	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Domestic Violence	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Dating Violence	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Fondling	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Other Offenses		On Campus	Non-Arrest Campus Referrals		Public Property
			Residential Facility	Non-campus Building or Property	
<b>Liquor Law Violations</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<b>Drug Abuse Violations</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<b>Illegal Weapons Possession</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Other Offenses		Arrests			
		On Campus	Residential Facility	Non-campus Building or Property	Public Property
Liquor Law Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Drug Abuse Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Illegal Weapons Violations	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

Type of Offense		On Campus	Residential Facility	Non-campus Building or Property	Public Property
<b>Hate Crimes</b>					
<i>Simple Assault</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Larceny Theft</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Intimidation</i>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<i>Vandalism</i>	2018	0	0	0	0
	2019	0	0	0	0

2020	0	0	0	0
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Crime information was requested from local Police Departments for all Mercy Campuses as well as Off-Campus buildings. Although not all departments responded, any statistics received are included above.

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This report includes statistics from the Yorktown Campus.

Crimes reported in the Residence Hall column are included in the “on-campus” category.

There were no reported hate/bias crimes in 2018, 2019 as well as 2020

**Fire Safety Report 2020****Definition**

For the purposes of fire safety reporting, a fire is, “Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner”.

**Fire Statistics**

The following statistics are for the Residential Life facilities located at 555 Broadway on the Dobbs Ferry Campus.

<b>Cause Categories</b>	<b># of Fires</b>	<b>Cause of Fires</b>
<b>Unintentional Fire</b>		
Cooking	0	none
Smoking materials	0	none
Open Flames	0	none
Electrical	0	none
Heating Equipment	0	none
Hazardous Products	0	none
Machinery/ Industrial	0	none
Natural	0	none
Other	0	none
<b>Intentional Fire</b>	0	none
<b>Undetermined Fire</b>	0	none
<b>Deaths related to fire</b>	0	none
<b>Injuries related to fire</b>	0	none
<b>Property damage (value)</b>	0	none

The following statistics are for the Residential Life facility located at 47 W 34<sup>th</sup> St. on the Manhattan Campus.

<b>Cause Categories</b>	<b># of Fires</b>	<b>Cause of Fires</b>
<b>Unintentional Fire</b>		
Cooking	0	none
Smoking materials	0	none
Open Flames	0	none
Electrical	0	none
Heating Equipment	0	none
Hazardous Products	0	none
Machinery/ Industrial	0	none
Natural	0	none
Other	0	none
<b>Intentional Fire</b>	0	none
<b>Undetermined Fire</b>	0	none
<b>Deaths related to fire</b>	0	none
<b>Injuries related to fire</b>	0	none
<b>Property damage (value)</b>	0	none

### **Fire Safety Systems**

There are 2 on-campus student housing facilities located at 555 Broadway, Dobbs Ferry, NY 10522 and one on-campus facility located at 47 W 34<sup>th</sup> St., NY, NY 10001. The Residential Life facilities have a sprinkler system with sprinkler heads located in all of the hallways and students' rooms. The hallways in the Residential Life facilities have audible horns and strobe lights that are activated during a fire alarm. All hallways and public areas of the Residential Life facilities have smoke detectors that are connected directly into the fire alarm panel which is central station monitored. Fire extinguishers and fire alarm pull stations are located throughout the buildings and emergency exit routing signs are located in all hallways. Fire safety training is provided to all Residential Life personnel. 8 fire evacuation drills were held in 2020.

### Fire Safety Report 2019

#### Definition

For the purposes of fire safety reporting, a fire is, “Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner”.

#### Fire Statistics

The following statistics are for the Residential Life facility located at 555 Broadway on the Dobbs Ferry Campus.

<b>Cause Categories</b>	<b># of Fires</b>	<b>Cause of Fires</b>
<b>Unintentional Fire</b>		
Cooking	0	none
Smoking materials	0	none
Open Flames	0	none
Electrical	0	none
Heating Equipment	0	none
Hazardous Products	0	none
Machinery/ Industrial	0	none
Natural	0	none
Other	1	none
<b>Intentional Fire</b>	0	none
<b>Undetermined Fire</b>	0	none
<b>Deaths related to fire</b>	0	none
<b>Injuries related to fire</b>	0	none
<b>Property damage (value)</b>	0	none

#### Fire Safety System

There are two on-campus student housing facility that is located at 555 Broadway Dobbs Ferry, NY 10522. The Residential Life facility has a sprinkler system with sprinkler heads located in all of the hallways and student’s rooms. The hallways in the Residential Life facility have audible horns and strobe lights that are activated during a fire alarm. All hallways and public areas of the Residential Life facility have smoke detectors that are connected directly into the fire alarm panel which is central station monitored. Fire extinguishers and fire alarm pull stations are located throughout the building and emergency exit routing signs are located in all hallways. Fire safety training is provided to all Residential Life personnel. 8 fire evacuation drills were held in 2019.

### **Fire Safety Report 2018**

#### **Definition**

For the purposes of fire safety reporting, a fire is, “Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner”.

#### **Fire Statistics**

The following statistics are for the Residential Life facility located at 555 Broadway on the Dobbs Ferry Campus.

<b>Cause Categories</b>	<b># of Fires</b>	<b>Cause of Fires</b>
<b>Unintentional Fire</b>		
Cooking	0	
Smoking materials	0	none
Open Flames	0	none
Electrical	0	none
Heating Equipment	0	none
Hazardous Products	0	none
Machinery/ Industrial	0	none
Natural	0	none
Other	0	none
<b>Intentional Fire</b>	0	none
<b>Undetermined Fire</b>	0	none
<b>Deaths related to fire</b>	0	none
<b>Injuries related to fire</b>	0	none
<b>Property damage (value)</b>	0	none

#### **Fire Safety System**

There are two on-campus student housing facility that is located at 555 Broadway Dobbs Ferry, NY 10522. The Residential Life facility has a sprinkler system with sprinkler heads located in all of the hallways and student’s rooms. The hallways in the Residential Life facility have audible horns and strobe lights that are activated during a fire alarm. All hallways and public areas of the Residential Life facility have smoke detectors that are connected directly into the fire alarm panel which is central station monitored. Fire extinguishers and fire alarm pull stations are located throughout the building and emergency exit routing signs are located in all hallways. . Fire safety training is provided to all Residential Life personnel. 4 fire evacuation drills were held in 2018.

### **Residential Life Policy**

It is Mercy College policy that the Residence Halls are completely smoke free. Smoking is also prohibited outdoors in front of the buildings and windows. Cooking in rooms is strictly forbidden. Students are also prohibited from having hot plates, toaster ovens, toasters, electric skillets, steamers, coffee pots, popcorn poppers, microwave ovens and any other cooking devices in their rooms. In addition, the following items are also considered prohibited items; halogen bulbs or halogen lamps, electric blankets, air conditioners, incense or candles. All prohibited items will be confiscated and students will be subject to discipline and sanctions as set forth in a disciplinary hearing.

The entire text regarding the policy for students in the Residential Life facility can be found at [www.mercy.edu/studentlife/residentiallifehandbook.pdf](http://www.mercy.edu/studentlife/residentiallifehandbook.pdf)

### **Residential Life Evacuation**

#### **PROCEDURE**

- 1) If you hear an alarm – don't investigate. Leave your room and close the door
- 2) If you see a fire or encounter a significant smoke condition - pull the nearest fire alarm box
  - C. Once the fire alarm has sounded the R.A.s will check that all residents are evacuating the building, and if possible, closing all doors and windows while exiting. Take your keys with you
  - D. Assistance should be afforded to any individual requiring help in evacuating the building
  - E. IMPORTANT: Once a fire alarm has sounded the building will be evacuated following standard evacuation procedures. All residents will report to the designated assembly area
  - F. DON'T PANIC – EXIT CALMLY
  - G. DO NOT USE THE ELEVATORS
    - 1) DO NOT RETURN to the building until instructed to do so by the Safety and Security Office or fire department personnel
- If the fire alarm is activated – the building must be evacuated regardless of the reason for the alarm (burnt food, facilities repair, etc.). Failure to evacuate the building is a violation of fire regulations and a serious violation of College policy.

IF YOU CANNOT EXIT (because of fire or smoke in the corridor, or any other condition):

- 2) Remain calm
- 3) Close the door
- 4) If you become trapped in a building during a fire and a window is available place an article of clothing (shirt, coat, etc.) outside of the window as a marker for rescue crews
- 5) If there is no window stay near the floor where the air is less toxic
- 6) If smoke comes in under the door stuff the opening with articles of clothing to prevent smoke from coming in
- 7) Open the window slightly at the top and bottom but close the window if smoke comes in. Do not break the windows
- 8) Shout at intervals to alert emergency crews of your location

#### PLAN AHEAD

- Know the location of fire alarms, fire exits and extinguishers and the location of your primary fire exit
- Count the number of doors to the nearest exit. In a fire, smoke can make it hard to see. Find the nearest exit in the opposite direction; you'll use it if fire keeps you away from your primary exit
- Keep your room key near the bed where you can get it quickly if there's a fire

Resident Assistants (RAs) instruct students on proper evacuation procedures at the first floor meeting of the year. Students are also instructed that the evacuation information is located within the Mercy College Emergency Response Plan for Dobbs Ferry during their Residential Life orientation program.

The Residential Life hand book [www.mercy.edu/studentlife/residentiallifehandbook.pdf](http://www.mercy.edu/studentlife/residentiallifehandbook.pdf) outlines the policy for Residential Life evacuations.

The Mercy College Emergency Response Plan for Dobbs Ferry details the procedures for building and Residential Life evacuations. The Plan is available online via the Mercy College Campus Safety website.

Fire Safety education is made available through the Campus Safety website and also addressed in the Emergency Response Plan available to all faculty, staff and students. Fire drills are held on a regular basis on all four campuses in accordance with applicable law.

#### **Reporting a Fire**

To report a fire on campus call 911 or utilize the pull stations located throughout the Residential Life facility. Any information regarding a fire that has occurred should be reported to the Campus Safety office (914) 674- 7225 or the Residential Life office (914) 674- 7277. Information regarding a fire that has occurred may also be reported to the Resident Director (RD) or Resident Assistant (RA).



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